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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION (2026)

PUBLIC INVESTMENTS COMMITTEE

ON

COMMERCIAL AFFAIRS AND ENERGY

FOURTH REPORT

OF

THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY

ON EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF SELECTED STATE CORPORATIONS

(ENERGY SECTOR)

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 02 APR 2026
DAY. Thursday
TABLED BY: Chairperson Hon. David Pkosing, CBS, MP
CLERK-AT-THE-TABLE: Halima Ahmed

DIRECTORATE OF AUDIT, APPROPRIATIONS & GENERAL-PURPOSE COMMITTEES

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LIST OF ABBREVIATIONS AND ACRONYMS

BHRC	-	Human Resource Board Committee
CBA	-	Collective Bargaining Agreement
CEO	-	Chief Executive Officer
CoK 2010	-	Constitution of Kenya, 2010
CS	-	Cabinet Secretary
DCI	-	Directorate of Criminal Investigations
EACC	-	Ethics and Anti-Corruption Commission
EPRA	-	Energy and Petroleum Regulatory Authority
FY	-	Financial Year
GDC	-	Geothermal Development Company
GoK	-	Government of Kenya
GREEN	-	Kenya Green and Resilient Expansion of Energy
IAS	-	International Accounting Standards
IFRS	-	International Financial Reporting Standards
IPSAS	-	International Public Sector Accounting Standards
KenGen	-	Kenya Electricity Generating Company
Kes/ Kes.	-	Kenya Shillings
KETRACO	-	Kenya Electricity Transmission Company Limited
KPLC	-	Kenya Power and Lighting Company
KRA	-	Kenya Revenue Authority
MOEP	-	Ministry of Energy and Petroleum
NuPEA	–	Nuclear Power and Energy Agency
OAG	-	Office of the Auditor General
PAP	-	Project Affected Persons
PBC	-	Performance-Based Contracting
PFMA	-	Public Finance Management Act, No. 18 of 2012

PPA	-	Power Purchase Agreements
PPAD	-	Public Procurement and Asset Disposal Act, No. 33 of 2015
PS	-	Principal Secretary
PSASB	-	Public Sector Accounting Standards Board
RBAC	-	Role-Based Access Control
REREC	-	Rural Electrification and Renewable Energy Corporation
SCAC	-	State Corporations Advisory Committee
SRC	-	Salaries and Remuneration Commission
WIP	-	Work in Progress

CHAIRPERSON'S FOREWORD

The Public Investments Committee on Commercial Affairs & Energy (hereinafter referred to as "the Committee" is one of the six 'Watchdog Committees' in the Thirteenth Parliament that examine reports of the Auditor-General laid before the National Assembly to ensure probity, efficiency and effectiveness in the use of public funds. The Committee is established pursuant to National Assembly Standing Order 206A to examine the working of public investments based on their audited reports and accounts. This ensures implementation of *Article 229(8)* of the Constitution of Kenya, 2010, on reports laid before the House by the Auditor-General. The Committee was hived off the hitherto singular Public Investments Committee, alongside two others, for the efficiency of examination of audit reports.

In examining the accounts of the Auditor General, the Committee invited Accounting Officers in each of the state corporations under review to adduce evidence before it.

This report contains observations, findings and recommendations arising from examination of reports of the Auditor-General for five (5) State Corporations for three financial years running up to FY 2022/2023. The report is structured as follows:

i) general observations arising from recurring and cross-cutting audit queries;

ii) recommendations to each of the above;

iii) audit queries identified by the Auditor General in the audit reports of each state corporation;

iv) Management Responses to each of the queries;

v) Committee Observation on each query; and

vi) recommendations of the Committee to each query raised.

In this report, the Committee makes policy recommendations that it deems will cure financial and audit challenges, and at the same time recommends specific actions against specific officers who may have acted contrary to the law. All this is geared towards ensuring prudent use of public resources and holding all persons that have misappropriated public funds accountable, in accordance with Article 226 (5) of the Constitution.

The Committee appreciates the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to it to enable it to perform its mandate. The Committee further extends its appreciation to the Office of the

Auditor-General for the services it offered to the Committee during the entire period of the examination, as well as those Accounting Officers who complied with audit timelines and provided satisfactory responses to queries raised.

I also extend my appreciation to my fellow Members of the Committee and the secretariat, whose immense contributions and dedication to duty has enabled the Committee to examine the audit queries and produce this report.

On behalf of the Public Investments Committee on Commercial Affairs & Energy, and pursuant to National Assembly Standing Order 199(6), it is my pleasant duty and honour to present to the House the 4th Report of the Public Investments Committee on Commercial Affairs & Energy on the audited Financial Statements for *five* (5) State Corporations.

HON. DAVID LOSIAKOU PKOSING, CBS, MP

CHAIRPERSON, PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY

EXECUTIVE SUMMARY

The 4th report of the Public Investments Committee on Commercial Affairs & Energy (PIC-C&E) contains the Committee's examination of audited financial statements of five (5) State Corporations.

In its examination and scrutiny of the audited financial statements of the various State Corporations, the Committee's primary approach was to enquire on background information as to why particular course of financial and/or management actions were or were not taken. This was done with the relevant public financial management principles in mind, including, the Constitution of Kenya, 2010, the Public Audit Act, 2015, the Public Finance Management Act, 2012, and the attendant regulations, Public Procurement & Asset Disposal Act, 2015 and the attendant regulations, the International Public Sector Accounting Standards (IPSAS) and International Financial Reporting Standards (IFRS) relevant for commercial state corporations.

The preface of the report contains preliminaries on the establishment of the Committee; its membership and secretariat; mandate, and the guiding principles governing the Committee while undertaking its mandate.

Part two of this report contains the committee's general observations/findings on cross-cutting issues and their recommendations.

Part three of this report contains reports of the specific state corporations whose financial statements were examined; the financial years considered in each state corporation; the specific audit reservations raised by the Auditor General in each financial year; *Management Response* to each audit reservation raised by the Auditor General; Committee Observation after considering each audit reservation; and finally, Committee Recommendations on each audit query.

1.0. PREFACE

1.1. ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Public Investments Committee on Commercial Affairs & Energy is established under the National Assembly Standing Order (S.O.) 206A and is responsible for the examination of the working of public investments based on their audited reports and accounts in the sectors of energy, environment, general economic and commercial affairs. It is mandated to-
   i) Examine the reports and accounts of the public investments.
   ii) Examine the reports, if any, of the Auditor General on the public investments; and
   iii) Examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

2. The Committee, in considering the audited accounts of state corporations, is guided by the Constitution of Kenya and the following statutes and codes/regulations as it executes its mandate: -

   a) Chapter Twelve of the Constitution on Public Finance

   Part I-Principles of Public Finance

   Article 201 sets out the principles of public finance, which include: -
   (i) openness and accountability, including public participation in financial matters (Article **201(a)**; use of public money prudently and responsibly (Article **201(d)**; and
   (ii) responsible financial management and clear fiscal reporting (Article **201(e)**.

   Part 6-Control of Public Money

   Article 226 deals with the accounts and audit of public entities and provides that:
   (i) the accounting officer of a national public entity is accountable to the National Assembly for its financial management (Article **226(2);** and
   (ii) the holder of a public office, including a political office, who directs or approves the use of public funds contrary to law or instructions, is personally liable for any loss arising from that use

and shall make good the loss, whether the person remains the holder of the office or not (Article **226(5).**

Article 227 deals with the procurement of public goods and services. Article 227 (1) in particular, provides that "when a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive, and cost-effective".

The Public Finance Management Act, Cap 412A

Section 68 sets out the responsibilities of accounting officers for national government entities, Parliament and the Judiciary. This includes accountability to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a lawful, authorized, effective, efficient, economical and transparent manner (section 68(1)).

Section 72 focuses on the accounting officers' responsibility to manage the assets and liabilities of national government entities.

3. Apart from the above-named laws, the Committee was further guided by the following other laws and Regulations: -
   i) The Parliamentary Powers and Privileges Act, No. 29 of 2017;
   ii) The Public Procurement and Asset Disposal Act, Cap 412B;
   iii) the State Corporations Act, Cap 446;
   iv) The Public Audit Act, No. 34 of 2015;
   v) The Fair Administrative Action Act, No. 4 of 2015;
   vi) The Accountants Act, No. 15 of 2008;
   vii) The Public Finance Management (National Government) Regulations, 2015;
   viii) The Public Procurement and Asset Disposal Regulations, 2020; and
   ix) The National Assembly Standing Orders.

1.2 COMMITTEE MEMBERSHIP

4. The Committee comprises of the following fifteen (15) Members;

1. **Hon. David Pkosing, CBS, M.P. – Chairperson**
Pokot South Constituency
KUP

2. **Hon. Dr. John Ariko Namoit, M.P. – Vice Chairperson**
Turkana South Constituency
ODM

Committee Members

3. **Hon. Dr. Adan Wehliye Keinan, CBS, M.P.**
Eldas Constituency
Jubilee

4. **Hon. Mwangi Kiunjuri, EGH, M.P.**
Laikipia East Constituency
TSP

5. **Hon. Sarah Paulata Korere, M.P.**
Laikipia North Constituency
Jubilee

6. **Hon. Babu Owino Paul Ongili, M.P.**
Embakasi East Constituency
ODM

7. **Hon. Dr. Beatrice Kahai Adagala, M.P.**
Vihiga (CWR)
ANC

8. **Hon Esther Muthoni Passaris, M.P.**
Nairobi (CWR)
ODM

9. **Hon. Betty Njeri Maina, M.P.**
Murang'a (CWR)
UDA

10. **Hon. Paul Kahindi Katana, M.P.**
Kaloleni Constituency
ODM

11. **Hon. Charo Kazungu Tungule, M.P.**
Ganze Constituency
PAA

12. **Hon. David Kiplagat, M.P.**
Soi Constituency
UDA

13. **Hon. Duncan Mathenge Maina, M.P.**
Nyeri Town Constituency
UDA

14. **Hon. Ronald Kamwiko Karauri, M.P.**
Kasarani Constituency
Independent

15. **Hon. Yusuf Mohamed Farah, M.P.**
Wajir West Constituency
ODM

1.3. COMMITTEE SECRETARIAT

5. The Secretariat facilitating the Committee comprises the following technical staff: -

i)	Ms. Esther Nginyo	-	Senior Clerk Assistant/ Team Leader
ii)	Mr. Andrew Kipchumba	-	Clerk Assistant III
iii)	Ms. Gladwel Amimo	-	Clerk Assistant III
iv)	Ms. Angela Musau	-	Legal Counsel II
v)	Ms. Judith Kiprop	-	Fiscal Analyst II
vi)	Mr. Amos Tindi	-	Hansard Reporter II
vii)	Ms. Roselyne Ndegi	-	Senior Sergeant at Arms
viii)	Ms. Deborah Mupusi	-	Media Relations Officer II
ix)	Mr. Timothy Chiko	-	Research Officer III
x)	Mr. Danton Kimutai	-	Audio Officer
xi)	Ms. Lily Cherotich	-	Protocol Officer

1.4. COMMITTEE PROCEEDINGS

6. To produce this report, the Committee held seventeen (17) sittings in which it comprehensively examined the reports of the Auditor General on the financial statements of *five* (5) State Corporations for various financial years.

7. In its inquiry into whether the affairs of the public investments are managed in accordance with sound business principles and prudent commercial practices, the Committee heard and received both oral and written evidence from Chief Executive Officers, Managing Directors and Director Generals (Accounting Officers) of various State Corporations and other relevant witnesses.

8. The Committee Observations and recommendations on the issues raised by the Auditor General for the various State Corporations are found under appropriate sections of the report for each of the State Corporations covered.

9. These Committee Observations and recommendations, if considered and implemented, will enhance accountability, effectiveness, transparency, efficiency, prudent management, commercial viability and value for money in State Corporations and the public investments in the sectors of energy, environment, general economic and commercial affairs.

2.0. GENERAL OBSERVATIONS AND RECOMMENDATIONS

10. In consideration of reports of various state agencies, the Committee encountered cross-cutting and at times recurring matters that make general observations and recommendations. Specific observations and recommendations are, however, made under each specific agency. In summary, the following are the general cross-cutting issues observed affecting most agencies that were examined by the Committee: -

a. Poor Accounting Standards and General Incapacity of Some Accounting Officers

11. The Committee observed that, due to a laxity on the part of some Accounting Officers, some queries relating to accounting standards that ought to have been resolved during the audit process end up being subjected to Parliamentary scrutiny. In addition, some accounting officers were generally non-compliant to various provisions of the Public Finance Management Act, Cap 412A, Public Audit Act, Cap 412B and the Regulations therein.

12. Audit queries spanning from the Financial Year 2018/19 remained unresponded to by some agencies, that were only triggered to action when they were invited by the Committee. This therefore affected the Committee's timelines in examining the audit queries as some of the submissions presented before the Committee were either insufficient or lacked concrete supporting evidence thereby necessitating the Committee to postpone examinations to allow the agencies to prepare effectively.

13. In view of the above, the Committee recommends that the National Treasury, Inspectorate of State Corporations and the Office of the Auditor General to conduct annual sensitization and capacity building exercises to all accounting officers and finance staff in state corporations on matters relating to financial reporting including their responsibilities during the audit cycle and adherence to IPSAS.

b. Unsecured/ Untitled Land Holdings

14. The Committee also observed that there were cases where land held by various institutions lacked title documents. This has resulted to encroachment in some cases and land dispute cases that pose a potential risk of loss of land. The Committee recommends that the National Land Commission and the Ministry

of Lands, Housing and Urban Development to immediately ensure that all State Corporations secure titles to all their parcels of land pursuant to National Treasury Circular No. 5 of 2024 on acquisition of Title Deeds for public institutions. The agencies and the National Treasury must also prioritize fencing off all land holdings to forestall further encroachment. Further, the Committee recommends that the EACC to undertake investigations on encroached lands for the affected corporations and ensure that encroachers face full extent of the law, and are evicted and charged in court.

c. ***Failure to Avail Documents on Time***

15. The Committee observed that there was a laxity by agencies to avail documents to the Auditor general for verification as required under section 68 (2) (k) of the Public Finance Management Act, Cap 412A. This has resulted into audit queries escalating to Parliamentary scrutiny whereas they would have been resolved at the time of audit.

16. On the other hand, some Accounting Officers appear before the Committee without adequate supporting documents to support the submissions thereby delaying the process of examination.

17. The Committee recommends that Accounting Officers should henceforth adhere to section 68 (2) (k) of the Public Finance Management Act, Cap 412A.

d. Unproperly Constituted Boards of Management.

18. The Committee observed that although it was not the responsibility of the Accounting Officers to appoint members of the Boards, the agencies have continued operating with Boards that are not properly constituted in line with State Corporations Act, Cap 446 and the *Mwongozo* Code of Corporate Governance. This has hampered their operations and promoted weak oversight in the management of the affairs of the agencies.

19. The Committee recommends that the Accounting Officers should proactively notify the parent Ministries on the status of the membership of the Boards and the appointing Authorities to ensure that the vacancies are filled without undue delay.

Summary of the Audit Queries

Institution/Agency	Financial Years	No. of Audit Queries	Resolved	Unresolved
Rural Electrification and Renewable Energy Corporation	2020/2021, 2021/2022, 2022/2023	49	27	22
Kenya Electricity Generating Company PLC	2021/2022, 2022/2023	8	6	2
Kenya Electricity Transmission Company Limited	2018/2019, 2019/2020, 2020/2021, 2021/2022	51	26	25
Kenya Power and Lighting Company	2018/2019, 2019/2020, 2020/2021, 2021/2022, 2022/2023	60	18	42
Nuclear Power and Energy Agency	2018/2019, 2019/2020, 2020/2021, 2021/2022 2002/2023	29	28	1
TOTAL		**197**	**105**	**92**

3.0 CONSIDERATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE AUDITED FINANCIAL STATEMENTS OF STATE CORPORATIONS

3.1 RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION (FY 2020/2021 -2022/2023)

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE AGENCY FOR THE FY 2020/2021, FY 2021/2022 AND FY 2022/2023.

20. The management of Rural Electrification and Renewable Energy Corporation, led by the Chief Executive Officer Dr. Rose Mkalama appeared before the Committee to adduce evidence on the audit queries that the Auditor General had raised for the FY 2020/2021 and FY 2022/2023.

Overview of the State Corporation

21. Rural Electrification and Renewable Energy Corporation (REREC) is a state corporation under the Ministry of Energy and Petroleum mandated of spearheading Kenya's renewable energy drive and implementing rural electrification projects.

22. Parliament had examined the audit reports of REREC up to FY 2019/20.

FINANCIAL YEARS 2020/2021 AND 2021/2022, 2022/2023

23. The Committee was informed that in the three financial years under review, REREC received qualified opinions and raised the following audit issues:

FINANCIAL YEAR 2020/2021

1.0 Variance between Financial Statements and Ledgers

24. Comparison of balances reflected in the financial statements with those in ledgers reflect unexplained and unreconciled variances of Kes.8,595,681,628 as detailed below;

No.	Component	Financial Statements Figure (Kes.)	Ledger Balance (Kes.)	Variance (Kes.)
1	Advance to Vendors	950,734,000	277,909,373	672,824,627
2	Deposits – Rent	14,627,000	14,437,436	189,564
3	Other Receivable –	586,864,000	522,963,843	63,900,157

	Sale of Power			
4	Insulators	227,804,000	229,590,026	(1,786,026)
5	Surge Diverters	585,720,000	584,845,754	874,246
6	Work in Progress	16,252,778,000	8,858,353,460	7,394,424,540
7	Tax Payable – Withheld tax 5% Prof. Fees	2,793,000	1,793,000	1,000,000
8	Tax Payable – Withheld VAT	172,536,000	13,516,000	159,020,000
9	Tax Payable – Withheld tax 2% Agency	2,572,000	343,000	2,229,000
10	Kenya Commercial Bank Escrow US Dollar Account Balance	1,252,985,000	1,326,847,276	(73,862,276)
11	Co-operative Bank Fixed Deposit Account	1,300,231,000	1,299,999,999	231,001
12	Inventories	5,014,548,000	3,479,650,840	1,534,897,160
13	Staff Advances	5,052,000	15,045,185	(9,993,185)
14	Sale of Electricity	487,394,000	515,181,000	(27,787,000)
15	Comparative Sale of Electricity	509,614,000	535,624,000	(26,010,000)
16	Revenue 5%-Rural Electrification Project Levy	5,201,872,000	6,296,342,200	(1,094,470,200)
	Total	**32,568,124,000**	**23,972,442,372**	**8,595,681,628**

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Management Response

i) Advance to vendors

25. This relates to advance payments made to suppliers of goods, works, and services in line with the Public Procurement and Disposal Act and the various contracts entered into between the Corporation and the respective vendors.

The ledger for advance to vendors reports a figure of Kes. 237,159,373.22 and not Kes. 277,909,373 reported in the audit report. The Correct variance therefore is Kes.713,574,626. A variance of Kes. 713,574,626 was noted between the initially reported figure in the financial statements and the ledger balances. The discrepancy has since been reconciled, and the financial statements were amended accordingly.

Reconciliation between Financial Statement and Ledger Balances:

Description	**Amount (Kes.)**	**Remarks**
Amount as per Advance Ledger Account	237,159,373.22	Advance to vendors Ledger balance as at 30th June 2021
Add: Advances made but not posted in the Ledger	672,824,627.00 40,750,000.00	This relates to an error omission several advances made which were not posted by 30th June 2021 but has subsequently been posted. This is illustrated in
Total	950,734,000.22	Amount reported in the financial statements
Less: Advance Payments Recovered	(320,508,031.60)	
Balance	**630,225,968.62**	**Reported in the financial statements of FY 2021/22 opening balances**

The above table demonstrates reconciliation was done between the reported figure of Kes.950,734,000.22 and Kes.630,225,968.62 in the financial statements of FY 2021/2022.

ii. Deposits – Rent

26. The corporation rents several facilities to support achievement of its mandate. This includes the following;

No.	**Name of facility**	**Lease period**
1	Nakuru regional office	01/12/2019 - 31/112025 (6 years)
2	Eldoret regional office	15/07/2015-14/7/2021(6 years) 15/7/2021-30/06/2024(3 years)

3	Awasi yard	1/12/2015 - 30/11/2020(5 years) 2/12/2022 - 30/06/2023(2 years 3 months)
4	Makuyu Yard	01/07/2020- 30/06/2021(1 year) 1/07/2021 - 30/06/2023 (2 years)
5	Mombasa road store	1/10/2020-31/12/2025 (5 years 3 Months)
6	Nyeri Office	1/01/2017- 31/12/2021(5 years) 1/01/2022 - 13/10/2023(5 years)

The ledger for rent deposit accounts reported an amount of Kes.14,626,784.80 and not Kes.14,437,436 reported in the audit report. There is therefore no reportable or reconcilable variance.

iii. Other receivable - Sale of power

27. This is with regard to revenue generated from Sale of Power from Garissa Solar power plant. It is true that there was a difference between the ledger balance and the financial statement figure. The ledger balance on sale of power was Kes. 522,963,842.65. This balance was subsequently updated with an amount of Kes. 63,900,157.35, being an unposted/omitted sales invoice (inclusive of VAT) for the month of June 2021. Additionally, the ledger was further updated to reflect foreign exchange rate adjustments amounting to Kes. 26,941,577.74. This is because during invoicing, an exchange rate of Kes. 102.35 per USD is maintained in the system whereas the same has to be adjusted to the closing rate every end of the month.

The adjustments were made as follows:

Component	**Amount Kes.**	**Remark**
Ledger balance	522,963,842.65	
Add: Unposted Invoice Adjustment	63,900,157.35	This relates to an unposted sales invoice (inclusive of VAT) for the month of June 2021.
Financial Statements	**586,864,000.00**	
Add forex adjustments	26,941,577.74	adjustment for exchange rate difference

Reported in the financial statements of FY 2021/22 opening balances	**613,805,577.74**	

These adjustments were made and subsequently incorporated in the opening balances of FY 2021/2022.

iv. Insulators

28. It is true that there was a variance between the financial statements and the ledgers of Kes. 1,786,026.00. This was as a result of an error of omission. The same has been corrected through Journal vouchers.

Description	Amount Kes.	Remark
Amount as per Ledger Balance – Insulators	229,590,026	
Less: Reconciliation Adjustment	(1,786,026)	Reconciliation item
Financial Statements Balance	**227,804,000**	Reported in the financial statements of FY 2021/22 opening balances

v. Surge Diverters

29. It is true that there was a variance between the financial statements and the ledgers of Kes. 874,653.73. This arose from non-inclusion of one ledger account called Inventory- Surge Diverters – GL 20005001. The same has been included in the opening balance of the financial statements of FY 2021/22. The detailed breakdown is as follows:

Description	Amount Kes.	Remark
Surge Diverters	584,845,734.00	GL 20006001
Inventory: Surge Diverters	874,653.73	GL 20005001- Omitted
Financial Statements Balance	**585,720,387.70**	Reported in the financial statements for the FY 2021/22 opening balances

From the analysis above, there was no variance between the ledger balances and the financial statements figure.

vi. Work in progress

30. Property, Plant and Equipment (PPE) represent a summary of the Corporation's total assets, both movable and immovable. The Work in Progress (WIP) component relates to ongoing projects currently being implemented by the Corporation. As at 30th June 2021, the ledger balance for Property, Plant and

Equipment (PPE) totaled **Kes. 16,252,778,000**, and **not Kes. 8,858,353,460** as reported in the audit report. The figure of **Kes. 16,252,778,000** is supported by the balances in the following general ledger accounts:

Work in progress	
Opening Balance	13,595,311,000
Additions in the year	83,700,722
Ledger 40001000	1,092,570,419
Ledger 40001000	100,378,213
Ledger 40002001	1,380,817,647
Total	**16,252,778,000**

From the analysis above, there was no variance between the ledger balances and the financial statements figure

vii. Tax Payable – Withheld tax 5% Prof. Fees

31. This relates to 5% Withholding tax on professional services received by the corporation. Such services include labour and transport services, survey services among others. The variances between the ledger balances and the financial statements were as a result of an omitted GL 12201000 which has now been reported in the financial statements of the FY 2021/22 opening balances.

12201000	Withholding Tax (Agency/Prof	999,191.17
12201002	5% WHT (Professional)	1,794,077.78
Total		**2,793,268.95**

viii. Tax Payable - Withheld VAT

32. There was no variance between the reported ledgers and the financial statements. The analysis of the General ledger balances for the taxes are as below.

12200000	Withholding Tax VAT Deducted	102,436,932.43
12202000	Value Added Tax (Output)	70,099,106.51
Total		**172,536,038.94**

The figure has now been reported in the financial statements of the FY 2021/22 opening balances.

ix. Tax Payable- Withheld tax 2% Agency

33. The variances between the ledgers balances and the financial statements arose from non-inclusion of one ledger account GL 12200001as detailed below. The balance was reported in the financial statements of FY 2021/22 opening balances.

Description	Amount Kes.	Remarks
Tax Payable- Withheld tax 2% Agency	343,000.00	
Add- 6% VAT Deducted	2,229,000.00	
Balance as per the financial statements	2,572,000.00	Reported in the financial statements for the FY 2021/22 opening balances

From the analysis above, there was no variance between the ledger balances and the financial statements figure

x. Kenya Commercial Bank Escrow US Dollar Account Balance

34. The Corporation maintains an escrow account denominated in US Dollars (USD) for the repayment of the Garissa Power Plant loan. As at the reporting date, the balance in the escrow account was USD 12,302,710.03. However, it was translated using a system generated exchange rate of Kes. 101.85 per USD instead of the applicable closing rate as at 30th June 2021, which was Kes. 107.85 per USD. This resulted in a foreign exchange gain amounting to Kes. 73,862,276.74, and not Kes. 46,172,436 as reported in the audit report. The calculation is as shown in the table below:

Foreign Exchange Gain – Escrow Account Revaluation

Description	USD Amount	Rate	Amount (Kes.)
Book Value	12,302,710.03	101.85	1,252,985,000.00
Revalued	12,302,710.03	107.85	1,326,847,276.74
Exchange gain			73,862,276.74

The revalued figure was reported in the financial statements of FY 2021/22 opening balances

xi. Co-operative Bank Fixed Deposit Account

35. The corporation negotiates for interest income on its money placed in all its bank accounts, including cooperative bank. The variance of Kes. 231,000 relates to accrued income initially posted in the corporation's cash book account instead of receivables account. The same has been corrected and correctly reported in the financial statements for the FY 2021/22 opening balances as interest receivable. This is reconciled as per the table below;

Description	Amount Kes.	Remarks
Ledger balance Before adjustment	1,300,231,000	**GL- 22000112 Coop bank account**
Less Accrued income	(231,000)	
Balance as per the Ledger GL- 22000112 Coop bank account	1,300,000,000	Reported in the financial statements for the FY 2021/22 opening balances

xii. Inventories

36. A variance was noted between the inventory ledger balances. This variance has been analyzed and reconciled as shown below:

Description	Kes.
Physical Inventory	3,306,616,376.99
Add: Associated Inventory Costs	1,664,322,498.83
Sub-Total	**4,970,938,875.83**
Add: Stationery Inventory	41,775,771.41
ICT Inventory	1,833,480.45
Inventory Ledger Balance	**5,014,548,127.69**

xiii. Staff Advances

37. The ledger balance for staff advances as at 30th June 2021 was Kes. 5,052,611.28, and not Kes. 15,045,185 reported in the audit report. Included in the balance of Kes. 5,052,611.28 is a credit of Kes. 7,731,344.80 a death insurance claim received by the Corporation on behalf of a late member of staff that was posted as staff advances to enable settlement of the insurance claim. This was corrected as tabulated below:

Description	Kes.
Balance as per the Ledger	5,052,611.28
Add: Death Insurance Claim	7,731,344.80
Reported in the financial statements for the FY 2021/22 opening balances	**12,783,956.08**

xiv. Sale of Electricity

38. This is with regard to revenue generated from sale of power from Garissa Solar power plant. It is true that there was a variance between the ledger and the financial statements. The variance was due to exchange rate between the system generated rate of Kes. 102.35 and the reporting rate. This is because during invoicing, an exchange rate of Kes. 102.35 per USD is maintained in the system whereas the same has to be adjusted to the closing rate every end of

the month. This balance was subsequently updated with an amount of Kes. 26,941,577.74 as analyzed.

The variance is as tabulated below;

Description	Amount Kes.	Remark
Ledger balance	487,394,208.55	**Sale of Power –**
Add: Foreign exchange Adjustment	26,941,577.74	
Financial statements	514,335,786.09	Reported in the financial statements for the FY 2021/22 opening balances

xv. Comparative Sale of Electricity

39. This is with regard to revenue generated from sale of power from Garissa Solar power plant. The amount was reported as outstanding since Kenya power had not remitted to the Corporation. The variance of **Kes. 26,010,000** is explained as follows:

Description	Amount Kes.	Remark
Amount as per ledger balance	535,624,000	Balance before adjustment
Less: adjustment	(26,010,000)	Adjustment of an invoice that was wrongly posted in the financial year 2020/2021.
Financial statements	**509,614,000**	Reported in the financial statements of FY 2021/22 opening balances

xvi. Revenue 5%-Rural Electrification Project Levy

40. These are funds collected by the Kenya Power and Lighting Company (KPLC) under Section 78 of the Energy Act, 2019, which imposes a 5% levy on electricity consumption. The ledger reported a balance of Kes. 6,296,342,200. However, this amount was adjusted by Kes. 1,094,470,200 for uncollected levies. The reconciliation is as follows:

Description	Amount (Kes. '000)	Remark
Amount as per Ledger Balance	6,296,342,200.00	Balance before adjustment
Less: adjustment	(1,094,470,200.00)	Adjustment for uncollectible levies
Amount in Financial Statements 2020/2021	**5,201,872,000.00**	

Less: Adjustment	**393,105,573.70**	Invoice that was double-posted for June 2020
	4,808,766,000.00	Reported in the financial statements of FY 2021/22 opening balances

Committee Observation

41. The Committee observed that the management had submitted explanations regarding the variances between the ledgers and the financial statements for the financial year 2020/2021, however evidence was not provided to support the explanation.

Committee Recommendation

42. Within three (3) months upon adoption of the report, the Accounting Officer should submit the journal vouchers supporting the changes in the financial statements for the year 2021/2022 in line with section 68(2) (b) of the Public Finance Management Act, Cap 412A to the OAG for verification.

2.0 Inaccuracies in the Financial Statements

43. The following variances in the financial statements were noted;
    i) Note 32 to the financial statements reflects computers net book value of Kes.59,307,000 while re-computation revealed Kes.55,483,000 resulting in an unexplained and unreconciled variance of Kes.3,824,000.

    ii) Note 33 to the financial statements reflects intangible assets net book value of Kes.61,212,000 while re-computation revealed Kes.37,981,000 resulting in an unexplained and unreconciled variance of Kes.23,231,000.

    iii) The Corporation's Escrow US Dollar cashbook was adjusted by Kes.46,172,436 to cater for exchange rate gain which was not reported as exchange gain in the statement of financial performance.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Management Response

44. The net book value for computers and related hardware reported under Note 32 is Kes. 59,306,507.92. According to the Corporation's accounting policy, these assets are depreciated at a rate of 33.3% per annum on a pro-rata basis.

The calculation for the depreciation of the Kes. 59,306,507.92 is as tabulated below:

Component	(Kes. '000)	Remarks
Computers and Related Hardware at Cost as at 30th June 2021	273,713,077.00	Computers and Related Hardware
Less: Accumulated Depreciation as at 30th June 2021	(214,406,489.69)	Accumulated Depreciation
	59,306,587.31	Reported in the financial statements of FY 2021/22 opening balances

From the analysis above, there was no variance between the ledger balances and the financial statements figure.

45. There was an expenditure of Kes. 38,446,015 for annual maintenance costs, software support, and SAP Cloud Platform subscriptions that was initially mis-posted under Intangible Assets – Software. However, this amount was later reversed, as it was recurrent in nature, and the ledger account was updated accordingly. The remaining balance was depreciated at a rate of 33.3% on a straight-line basis over the asset's useful life, in line with the Corporation's accounting policy.

The movement in balances is as summarized below:

Description	Financial Statements for 2020/2021 (Kes.)	Corrected Financial Statements for 2021/2022 (Kes.)	Variance (Amounts posted back to recurrent Expenses)
Cost of intangible assets	432,781,231.89	394,335,216.24	38,446,015.65
Less: Accumulated Depreciation	371,569,018.24	364,093,403.90	
Net Book Value (NBV)	**61,212,213.65**	**30,241,812.34**	

46. The Corporation maintains an Escrow account in USD for the repayment of the Garissa Power Plant loan. As at the reporting date, the balance in the escrow account was USD 12,302,710.03. However, it was translated using an exchange rate of Kes. 101.85 per USD instead of the applicable closing rate as at 30th June 2021, which was Kes. 107.85 per USD. This resulted in a foreign exchange gain amounting to Kes. 73,862,276.74, and not Kes. 46,172,436 as reported in the audit report. The calculation is as shown in the table below:

Foreign Exchange Gain – Escrow Account Revaluation

Description	USD Amount	Rate	Amount (Kes.)
Book Value	12,302,710.03	101.85	1,252,985,000.00
Revalued	12,302,710.03	107.85	1,326,847,276.74
			73,862,276.74

Committee Observation and Recommendation

47. The Committee observed at the time of examination, that the management had made the necessary amendments to the financial statements, including updating the ledgers, reversing the wrongly posted items, and making adjustments to foreign exchange rate. Hence, the matter stands resolved.

3.0 Misclassification in the Financial Statements

48. The following misclassifications in the financial statements were noted;

i) Note 32 to the financial statements reflects capital work in progress balance of Kes.16,252,778,000 which includes misclassified amounts of Kes.419,290,463 for staff costs, Kes.48,406,107 for rent and Kes.20,521,543 for security of yards.

ii) Intangible assets balance of Kes.61,212,000 in Note 33 to the financial statements includes misclassified expenditure of Kes.38,446,015 for annual maintenance cost software support and SAP cloud platform subscriptions.

iii) Note 29 to the financial statements reflect interest receivable of Kes.335,406,000 classified under receivables from non-exchange transactions instead of receivables from exchange transactions. In addition, Kes.303,599,495 had been paid and, therefore, should not have been classified as a receivable.

iv) Note 28(a) reflects other accrued revenues of Kes.10,437,436,000, being 5% Rural Electrification Projects Levy due from Kenya Power Company Limited, classified under receivables from exchange transactions instead of receivables from non-exchange transactions.

v) Note 8 to the financial statement reflects revenue 5% - Rural Electrification Projects Levy of Kes.5,201,872,000 which includes misclassified amount of Kes.393,105,574 for financial year 2019/2020.

In the circumstances, the presentation and disclosure of the financial statements is inaccurate in respect of the above transactions and balances.

Management Response

49. The expense relates to project-related costs that were initially budgeted under the capital budget for items such as staff costs, rent, and security. However, these costs are recurrent in nature. This was rectified through a journal adjustment, and the expenditure was recognized as recurrent expenditure.

50. Intangible assets balance of Kes.61,212,000 in Note 33 to the financial statements includes misclassified expenditure of Kes.38,446,015 for annual maintenance cost software support and SAP cloud platform subscriptions.

51. The expenditure of Kes.38,446,015 for Annual Maintenance Cost Software Support and SAP Cloud Platform Subscriptions which is recurrent expenditure in nature has been expensed as recommended and the necessary adjustments done. The intangible assets have been adjusted with Kes. 38,446,015 to reflect Kes. 30,241,812.34. Note 29 to the financial statements reflect interest receivable of Kes.335,406,000 classified under receivables from non-exchange transactions instead of receivables from exchange transactions. In addition, Kes.303,599,495 had been paid and, therefore, should not have been classified as a receivable

52. The interest receivable amount was adjusted as recommended by passing a journal of an amount of Kes. 303,599,495. The interest receivable amount as reflected in GL-23100009- Accounts receivable interest income is Kes.32,038,248.84.

53. The receivables from exchange transactions reported a balance of Kes.10,437,435,811.96 from 5% REP levy due from KPLC in the financial statements. This had been classified as revenue from non-exchange

transaction and reported as receivables form exchange transaction in the Statement of Financial Position in the financial statements which was re-classified as recommended and correctly reported both revenue and receivables as non-exchange transaction in the subsequent financial statements (FY 2021/2022).

54. The financial statement initially reflected the 5% Rural Electrification Projects (REP) Levy at Kes. 5,201,871,714.30. However, an adjustment was made to correct a double-posted invoice for June 2020 amounting to Kes. 393,105,573.70. The revised amount for the 5% REP Levy was Kes. 4,808,765,714.30, as summarized in the table below:

Description	**Amount (Kes. '000)**	**Remark**
Amount as per Ledger Balance	5,201,871,714.30	Balance before adjustment
Less: Adjustment	(393,105,573.70)	Invoice double-posted for June 2020
	4,808,766,000	Reported in the financial statements of FY 2021/22 opening balances

Committee Observation and Recommendation

55. The Committee observed during the examination that the management had rectified the misclassifications in the financial statements through appropriate journal vouchers. Hence, the matter stands resolved.

4.0 Inaccuracies in Cash and Cash Equivalents

56. The statement of financial position reflects cash and cash equivalents of Kes.5,773,477,000 as disclosed in Note 27(a) to the financial statements. However, review of the Standard Chartered Bank cashbook revealed transactions amounting to Kes.175,442,006 which were reversed to clear outstanding unpresented cheques but details of the corresponding accounts affected by the reversal and the journal vouchers were not provided for audit. The Corporation continued to maintain four (4) dormant bank accounts without adequate explanations and for which the respective certificates of bank balances were not provided for audit. Further a call account with Kenya Commercial Bank with an amount of USD 926,378 equivalent to Kes.99,909,819 and accrued interest of USD1,949 equivalent of Kes.210,226 which were not disclosed in the financial statements.

In the circumstances, the accuracy and completeness of cash and cash equivalent balance of Kes.5,773,477,000 could not be ascertained.

Management Response

i) Un-presented Cheques

57. The unpresented payments totaling Kes. 175,442,006 relate to transactions initiated close to the end of the financial year but had not cleared by the bank at year-end. These payments were appropriately reversed to ensure that the financial statements reflect the accurate cash balance as at year-end.

ii) Dormant Bank Accounts

No.	Account Name	Account No.	Management Comment
1	KCB Development	1103201808	This was re-designated to OFID project for purpose of receiving project funds.
2	National Bank	01023098897200	The Corporation established a credit line to support its letter of credit valued at Kes. 1 billion. The account is funded upon maturity of various LCs with National Bank and the account does not necessarily require to be funded with cash.
3	Citibank Current Account – KEEP	01136125016301	The accounts were established to receive counterpart funding from KEEP projects. National treasury has for some time not been able to disburse the same to the accounts. Extension of KEEP projects has since been granted and we expect that funds will start being received through the accounts from the National treasury
4	Citibank Current Account – KSSG	01136125016303	

iii) Call Account

58. The call account held with Kenya Commercial Bank (KCB), amounting to USD 926,378 (equivalent to Kes. 99,909,819) and accrued interest of USD 1,949 (equivalent to Kes.210,226), was not disclosed in the financial statements for the year ended 30th June 2021. Subsequently, the necessary adjustments were made, totaling Kes.100,120,045.38, comprising Kes. 99,909,818.77 principal amount and Kes.210,226.61 earned interest. The call account was properly disclosed in the subsequent financial statements for FY2021/2022.

59. The call account had not been reported in the Financial Statements. This was an error of omission. The adjustments were done to correct the cash and cash equivalent balance as at 30.06.2021 which increased the principal amount of Kes. 99,909,818.77 and interest earned of Kes. 210,226.61 totaling to Kes.100,120,045.38. The account is now disclosed in the subsequent financial statements (FY 2021/2022).

Committee Observation and Recommendation

60. The Committee observed that the management had made adjustments in the financial statement to correct the inaccuracies in cash and cash equivalents including; capturing the un-presented cheques and inclusion of call account. Thus, the matter stands resolved.

5.0 Unsupported Inventories

61. The statement of financial position reflects inventories valued at Kes. 5,014,548,000 as disclosed in Note 30 to the financial statements. However, inventories valued at Kes. 4,970,939,000 were not supported with stock valuation reports, ledger balances, and stock movement schedules. Further, stock items valued at Kes. 11,072,015 were issued to Kenya Power Company Limited without updating the SAP System. Physical verification revealed that one hundred and forty-five (145) faulty transformers replaced from already commissioned projects had not been accounted for in the SAP inventory system. In addition, the Corporation did not have a valuation policy to guide accounting for the faulty transformer.

    In the circumstances, the accuracy, completeness, and valuation of the inventories' balance of Kes. 5,014,548,000 could not be confirmed.

Management Response

62. The inventory valued at Kes. 5,014,548,000 comprises of the following:

Description	Kes.
Physical Inventory	3,306,616,376.99
Add: Associated Inventory Costs	1,664,322,498.83
Sub-Total	**4,970,938,875.83**
Add: Stationery Inventory	41,775,771.41
ICT Inventory	1,833,480.45
Inventory Ledger Balance	**5,014,548,127.69**

The associated inventory costs comprise of costs related to exchange rate transactions related to imported items, price variances of materials drawn from system calculated moving average costs, and costs associated with letters of credit among others. These costs have been accumulated overtime.

63. With respect to the unposted materials issued to KPLC, it is true that at the time of the Audit, materials valued at **Kes. 11,072,015** had been issued to KPLC and were awaiting posting into the SAP system. The posting was subsequently done as captured below;

Material code	Material Description	Transaction Document	Qty in unit of entry	Unit price	Value
1001027	Expulsion Fuse Mounting 11kv	4900319535	120	9,876.24	1,185,148.80
1001028	Expulsion Fuse Mounting 33kv	4900319535	120	5,964.14	715,696.80
1001029	Isolator Solid Link 33kv	4900319535	32	11,629.70	372,150.27
1001035	33KV Expulsion Fuse C/W Holder	4900319535	50	8,143.20	407,160.00
1001049	Insulator Shackle LV	4900319531	40,000	119.80	4,792,000.00
1001051	Insulator 33kv Stay Insulator	4900319536	86	2,262.00	194,532.00
1001051	Insulator 33kv Stay Insulator	4900319535	98	2,262.00	221,676.00
1001053	Insulator 33kv Tension Composite	4900319535	200	1,593.96	318,791.20
1001057	L. V. Stay Insulator	4900319535	500	256.94	128,470.00
1001063	Cable 16mm2 S/C Concentric AL Pvc	4900319548	70	191.40	13,398.00

	cable				
1001072	Stay Wire 4/8	4900319536	5,000	110.48	552,400.00
1001077	Cross-arm Steel 33kv 2400x100x75x9.5mm	4900319531	200	11,538.65	2,307,729.92
1001080	Cross Member Channel Steady Bar	4900319531	40	9,658.53	386,341.25
1001080	Cross Member Channel Steady Bar	4900319531	50	9,558.53	477,926.56
1001093	Bolt and Nut (9"x5/8")	4900319531	500	240.28	120,140.00
1001097	Bolt and Nut M20 x 280mm (3/4"x11")	4900319531	200	313.20	62,640.00
	TOTAL				**11,071,052.00**

Returned Transformers

Management Response

64. It is true that as at the time of the audit, 145No transformers returned from the field had not been posted into SAP system. This was however, as a result of delays in submission of the documentation, required prior to the posting of transformers back to the SAP system. The documents were subsequently received and the postings done as evidenced by the posting references below;

Code	Items Description	Transaction Ref. No.	Posting Date	Quantities	Unit Price	Value
F1001002	25KVA, 11/0.242KV	4900334541	29.06.2023	1	513,126.00	513,126.00
F1001003	50KVA, 11/0.420KV	4900334173	26.06.2023	14	620,368.00	8,685,152.00
F1001005	25KVA, 33/0.242KV	4900334394	27.06.2023	9	539,342.00	4,854,078.00
F1001006	50KVA, 33/0.420KV	4900333160	15.06.2023	93	668,160.00	62,138,880.00
F1001007	100KVA, 33/0.420KV	4900334533	29.06.2023	12	948,619.00	11,383,428.00

1001006	50KVA, 33/0.420KV	4900331637	25.05.2023	1	668,160.00	668,160.00
1001006	50KVA, 33/0.420KV	4900331636	25.05.2023	1	668,160.00	668,160.00
1001006	50KVA, 33/0.420KV	4900329249	03.05.2023	1	668,160.00	668,160.00
1001006	50KVA, 33/0.420KV	4900327655	16.03.2023	1	668,160.00	668,160.00
1001006	50KVA, 33/0.420KV	4900327109	08.03.2023	1	668,160.00	668,160.00
1001006	50KVA, 33/0.420KV	4900327106	08.03.2023	1	668,160.00	668,160.00
1001006	50KVA, 33/0.420KV	4900326525	09.03.2023	1	668,160.00	668,160.00
1001006	50KVA, 33/0.420KV	4900325812	28.12.2022	1	668,160.00	668,160.00
1001006	50KVA, 33/0.420KV	4900325811	28.12.2022	1	668,160.00	668,160.00
1001006	50KVA, 33/0.420KV	4900325809	28.12.2022	1	668,160.00	668,160.00
1001003	50KVA, 11/0.420KV	4900333953	26.06.2023	1	620,368.00	620,368.00
1001003	50KVA, 11/0.420KV	4900331635	25.05.2023	1	620,368.00	620,368.00
1001003	50KVA, 11/0.420KV	4900329251	03.05.2023	1	620,368.00	620,368.00
1001003	50KVA, 11/0.420KV	4900325807	28.12.2022	1	620,368.00	620,368.00
1001002	25KVA, 11/0.242KV	4900327105	08.03.2023	1	513,126.00	513,126.00
1001007	100KVA, 33/0.420KV	4900326526	09.02.2023	1	948,619.00	948,619.00

TOTAL	**145**	**98,199,481.00**

65. Whereas the Corporation did not have a written valuation policy on the accounting treatment for returned transformers, the Corporation's procedures were to post back into the SAP ERP system, any returned transformer at the full cost. This would avail the funds in the project for the immediate replacement of the transformer. In order to make this posting possible, it is a requirement that a set of documentation which include *inter alia*, the commissioning reports, KPLC/REREC joint inspection reports, and the preliminary failure reports are availed. At times, there can be a slight delay in availing this documentation thereby delaying the postings even though the transformers would be physically available in the store. Upon confirmation of documents, an inspection is conducted and posting is done into the SAP system. Thereafter, the transformers are transferred to a virtual store where they are segregated from good transformers.

66. To address this, the Corporation developed a policy that provides for a split valuation for transformers. This maintains different values for the new, repaired and returned transformers each with different material codes. On return, the transformers are posted at a nominal value of Kes. 1. An inspection is conducted and if the cost of repair of the transformer is estimated to equal to or less than 50% of the original value, it is approved for repair. Otherwise, the transformer is scrapped because repairing it would be uneconomical. On repair, the transformer is assigned a value equivalent to 50% of its original value.

Committee Observation

67. The Committee observed that:
    i) the management had provided a breakdown of items in the inventory and the items were captured in the SAP system. However, the system was in the process of being configured and optimized.
    ii) the management had developed a policy on valuation of returned transformers.

Committee Recommendation

68. Within three (3) months of adoption of this report, the Accounting Officer should submit a report on the optimization and configuration of the system to the OAG for verification.

6.0 Inaccuracy of Receivables from Exchange Transactions

69. The statement of financial position reflects receivables from exchange transactions of Kes. 12,010,567,000 as disclosed in Note 28(a) to the financial statements. Included in this balance were advances to vendors totaling Kes. 1,869,574,000 in respect of contracts for works, goods, and services that had been completed, certificates of work done issued, and deliveries made. However, the advances had not been recovered and the respective ledgers were not updated with the completed works, goods, and services. Further, the amount includes deposits-rent of Kes. 14,627,000 out of which Kes. 14,437,436 was in respect to expired leases whose refunds had not been received or leases renewed.

    In the circumstances, the accuracy and completeness of receivables from exchange transactions balance of Kes. 1,884,011,436 could not be confirmed.

Management Response

70. The financial statements reflected receivables from exchange transactions amounting to Kes. 12,010,567,000, as disclosed under Note 28(a). This balance included advances to vendors totaling Kes. 950,734,000 supported by ledger accounts and not Kes. 1,869,574,000 as indicated in the audit report. Following a reconciliation of the advance to vendor account, recoveries amounting to Kes. 320,508,031 were made revising the figure to Kes. 630,225,968 reported in the subsequent Financial Statements.

Reconciliation between Financial Statement and Ledger Balances

Description	**Amount (Kes.)**	**Remarks**
Amount as per Advance Ledger Account	237,159,373.22	Ledger balance as at 30th June 2021
Add: Advances made but not posted in the Ledger	672,824,627.00 40,750,000.00	Analysis of advances not posted in the ledger
Total	950,734,000.22	Amount reported in the financial statements
Less: Advance Payments Recovered	(320,508,031.60)	Recovered Advances
Balance	**630,225,968.62**	Reported in the financial statements of FY 2021/22 opening balances

The amount includes deposits-rent of Kes. 14,627,000 out of which Kes. 14,437,436 was in respect to expired leases whose refunds had not been received or leases renewed.

71. The Corporation rents several facilities to support the achievement of its mandate. These include the following:

No.	Name of facility	Lease period
1	Nakuru regional office	01/12/2019 - 31/112025 (6 years)
2	Eldoret regional office	15/07/2015-14/7/2021(6 years) 15/7/2021-30/06/2024(3 years)
3	Awasi yard	1/12/2015 - 30/11/2020(5 years) 2/12/2022 - 30/06/2023(2 years 3 months)
4	Makuyu Yard	01/07/2020- 30/06/2021(1 year) 1/07/2021 - 30/06/2023 (2 years)
5	Mombasa road store	1/10/2020-31/12/2025 (5 years 3 Months)
6	Nyeri Office	1/01/2017- 31/12/2021(5 years) 1/01/2022 - 13/10/2023(5 years)

The deposit is still in force and recoverable since the leases were renewed with the same landlords.

Committee Observation

72. The Committee observed at the time of examination that the management had signed lease agreements which had expired; thus, the deposits remained valid and are to be recovered in the future.
73. Further, the Committee observed that the other receivables related to work-in-progress (WIP), which were secured by a security bond and performance bond, and the contract were still in force.

Committee Recommendation

74. The Committee directs the OAG to keep the matter in view in future audit cycles.

7.0 Unsupported Staff Advances

75. The statement of financial position reflects receivables from non-exchange transactions amount of Kes. 340,458,000 as disclosed under Note 29 to the

financial statements. The amount includes staff advances of Kes. 5,052,000 in respect of per diems issued to staff. Although some of the staff surrendered the per diems, the general ledgers were not updated with the same. Further, it was noted that the Corporation maintained two general ledgers for staff advances in which accounting staff expenses was made.

In the circumstances, the accuracy and completeness of staff advances of Kes. 5,052,000 could not be confirmed.

Management Response

76. The Corporation maintains two separate ledgers for staff advances, as follows:
    - GL 23400002 – This ledger records salary advances
    - GL 23400110 – This ledger records staff travel advances, specifically per diems issued to facilitate official assignments.

    The duplication of ledgers is to ensure that staff transactions are correctly classified and posted. As per the audit finding, the amount of Kes. 340,458,000 reported as receivables from non-exchange transactions under Note 29 of the financial statements includes staff advances totaling Kes. 5,052,000. This amount represents outstanding advances as at the close of the financial year, which were subsequently accounted for after year-end.

Committee Observation and Recommendation

77. The Committee observed from the explanation of the Accounting Officer that the unsupported staff advances were accounted for in the financial statements of the FY 2021/2022. Therefore, the matter stands resolved.

8.0 Unsupported Trade and Other Payables from Exchange Transactions

78. The statement of financial position reflects trade and other payables from exchange transactions of Kes. 1,963,600,000 as disclosed in Note 35 to the financial statements. The amount includes trade creditors not invoiced of Kes. 1,115,603,000 which were not supported by ledgers. Further, included in the balance is an amount of Kes. 847,284,000 reported as trade creditors – invoiced and ageing analysis presented for audit revealed that an amount of Kes. 573,854,028 relating to payables had been outstanding for over one hundred and twenty (120) days without explanations.

    In the circumstances, the accuracy and completeness of trade and other payables from exchange transactions balance of Kes. 1,963,600,000 could not be confirmed.

Management Response

79. Trade and other payables from exchange transaction as at June 2021 amounted to Kes.1,963,600,437.64. Included in the balance is an amount of Kes. 847,283,655.81 reported as trade creditors – invoiced. The Corporation endeavors to settle its payables within 30 days after receipt of invoices as per the procedure manual. The accounts payables had a balance of Kes. 573,854,027.95 under more than 120 days column. This is due to the fact that contracts for construction and installation of powerlines and mini-grids have 6 months and 12 months respectively defects liability period which falls beyond the 120 days observed.

80. Un-invoiced creditors amounting to Kes.1,115,603,361.34 refer to amounts of Local purchase orders and service entry sheet created and issued to suppliers of goods and services. This process creates a payable situation in the system. When invoices are received, the same are posted to the system through the orders and service entry sheets.

Committee Observation

81. The Committee observed from the explanation by the Accounting Officer that a policy was in place regarding retention amounts, which were set at 10% of the total contract sum.

82. The Committee also observed that ledger payments were processed manually and that, due to the controls in place, it was not possible for an invoice to be paid more than once.
83. The Committee further observed that the management was in the process of updating the SAP system to enable all the ledger entries to be posted electronically in the future.

Committee Recommendation

84. Within three (3) months upon the adoption of this report, the Accounting Officer should submit a status report to the OAG on the transition of ledger entries from a manual process to electronic posting in the SAP system.

9.0 Unsupported Property Plant and Equipment

85. The statement of financial position reflects property, plant and equipment balance of Kes. 96,732,161,000 as disclosed in Note 32 to the financial statements. Included in the balance are overhead distribution lines of Kes. 80,116,501,000 whose breakdown and details indicating the contract sum,

starting and completion dates, payments made and current status were not provided for audit. In addition, the balance includes capital work in progress of Kes. 16,252,778,000 which includes some projects that were initiated five years ago and which remained incomplete. Also, a fixed assets register was not provided to support asset balances.

In the circumstances, the accuracy and completeness of property, plant, and equipment balance of Kes. 96,732,161,000 could not be confirmed.

Management Response

86. The overhead distribution lines figure of Kes. 80,116,501,000 is a cumulative amount from the year 2010 to June 2021 as tabulated below;

Rerec- Overhead distribution Lines		
No	**Year**	**Amount Kshs.**
1	2010	317,905,934.22
2	2011	184,807,002.81
3	2012	5,515,737,748.49
4	2013	4,340,986,491.68
5	2014	8,661,355,715.75
6	2015	5,592,005,374.91
7	2016	15,310,704,695.42
8	2017	14,480,300,042.54
9	2018	13,556,872,661.65
10	2019	267,954,188.34
11	2020	6,202,877,803.53
12	2021	5,684,993,340.66
	Total	**80,116,501,000.00**

87. Projects reported under work in progress have not stalled but are ongoing with some challenges of completion. The figure reported in the revised financial statements is as analysed below;

ANALYSIS OF W.I.P 2020/21FY	
Opening Balance	3,713,370,859.66
Labour & Transport Contracts	7,806,219,691.86
Donor Funded Projects	2,152,809,704.98
High Masts/Street Lighting	945,996,146.77
Gensets	278,580,241.38
Solar PRY & SEC Schools	271,302,742.20
Civil Works	844,331,078.15
Mini grids	159,032,000
Total	**16,012,610,465.00**

88. It is true that at the time of the audit, there were projects under capital work in progress of Kes. 16,252,778,000. Over time, these projects have been completed and commissioned. The corporation currently operates an ERP System which maintains a system-based assets register.

Committee Observation and Recommendation

89. The Committee observed during the examination that management had an asset register in place, and that work-in-progress (WIP) projects were properly recorded. Therefore, the matter stands resolved.

10.0 Irregular Expenditure on Land Survey Services

90. The statement of financial position reflects property, plant and equipment balance of Kes. 96,732,161,000 as disclosed in Note 32 to the financial statements. The amount includes additions to capital work in progress of Kes. 2,657,467,000 out of which Kes. 571,062,727 was paid to three (3) firms for land survey services to unspecified projects. In addition, there was no evidence of budgeting for the services, their inclusion in the annual procurement plan and competitive procurement. This was contrary to Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015 which states that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan. Further, the services were not supported by local services orders, contract agreements and reports by the three (3) firms indicating the topographical maps and way leaves.

In the circumstances, the regularity of the expenditure of Kes. 571,062,727 paid to three (3) firms for land survey services could not be confirmed.

Management Response

91. The corporation budgets for survey services as part of its total projects' costs (Materials, Labour and transport and Survey and design costs) from the appropriated budget under the vote line of Electrification of public facilities and transformer maximization approved by the National Assembly. The three firms engaged for the survey services had been competitively prequalified under the corporation's framework agreement for survey and wayleaves services.

92. The amounts in question relates to irregular survey services which had been charged to already completed projects. However, the Board was presented with an Internal Audit report alleging the loss of funds during its 47th Special Board meeting held on 3rd August, 2022. The Board during the 47th meeting

made a raft of recommendations among others that, thorough investigations be undertaken to ascertain the extent of loss incurred by the Corporation through fraudulent payments made to the three survey companies.

93. Consequently, on 8th August, 2022, the Corporation wrote to the Ministry of Energy requesting the Ministry to invite the Directorate of Criminal Investigations (DCI) or any other relevant body the Ministry may find suitable to undertake the investigations into the fraudulent payments. On 8th August, 2022, the Ministry of Energy wrote to the Directorate of Criminal Investigations to undertake investigations. Further, the Board made resolutions on administrative action to be taken against staff who had been implicated. Consequently, five staff were dismissed.

Mitigation measures by management

The management has since taken actions to mitigate future recurrence. They include;

i) Under the Survey Services;

94. The Corporation has since ceased the engagement of contracted surveyors and has instead established a fully-fledged Geospatial department responsible for conducting internal Geospatial services such as Route Surveys, Wayleave Acquisition, and Route Pegging, which were previously outsourced to Frame contractors. To ensure proper management, the Corporation has implemented internal controls, including issuing instructions for surveys (via Design and Survey Memo), preparing Back-to-Office reports (BTOR) after fieldwork, submitting engineering survey drawings, delivering survey maps obtained from the director of surveys office, providing a detailed list of customers (beneficiaries), and delivering acquired wayleave consents and related documentation.

ii) Under ICT;

95. The Management acknowledges that weaknesses in SAP ECC 6.0— particularly the misuse of the UNTECO function was identified as the main weakness. In SAP Project Systems, TECO (Technically Complete) marks a project or WBS element as closed, preventing further transactions like payments or procurements. UNTECO reverses this status, reopening the project to allow new transactions. UNTECO is useful for correcting genuine errors but highly sensitive and risky if misused. This sensitive function was abused to reopen closed projects and process fictitious activities and payments.

96. To address this, the Management revoked the UNTECO rights from all users and vested them solely in the General Manager, Power Distribution and Regional coordination with written approval from CEO. All such actions are now logged and reviewed for compliance by the ICT manager. Further, all user rights in SAP were stripped and reconfigured based on a strict Role-Based Access Control (RBAC) model to eliminate privilege creep and enforce segregation of duties.To strengthen system integrity and prevent recurrence, the Management implemented a formal SAP rights form approval which ensures that any modification to user roles or system behaviors is subject to a structured request, risk analysis, and dual-level approval.

Follow-up and Disclosure Measures:

97. The matter remains under active investigation by the Directorate of Criminal Investigations (DCI). In the interim, the Corporation has continued to cooperate fully with the investigative authorities. To uphold transparency and accountability, the amount under investigation has been appropriately disclosed in all subsequent financial statements in accordance with applicable reporting standards. The Corporation remains committed to implementing any further recommendations that may arise upon the conclusion of the investigations.

Committee Observations

98. The Committee observed from the explanation by the Accounting Officer that Rural Electrification and Renewable Energy Corporation (REREC) had dismissed five staff members who were involved in the irregular expenditure related to land surveying, and that investigations were still ongoing by the Directorate of Criminal Investigations (DCI).

99. The Committee observed that the management had instituted measures to prevent future loss of funds in survey services that included; establishment of a fully-fledged Geospatial department and streamlining the approval process in the ICT department where only the General Manager has the UNTECO rights.

Committee Recommendation

100. The Committee directs the OAG to carry out an audit on the ICT (SAP-ERP) system to confirm whether controls are in place and that the rights for all staff have been revoked, and only the General Manager has the right to grant approvals.

101. The OAG to submit the report to Parliament within three (3) months upon adoption of the report.

102. Within three (3) months upon adoption of this report, the Accounting Officer should submit a status report on the dismissed staff and the status of the ongoing investigations by the DCI to the OAG for verification.

Other Matter

11.0 Budgetary Control and Performance

103. The statement of comparison of budget and actual amounts expended amount of Kes. 744,199,000 against final expenditure budget of Kes. 881,574,000 resulting to an under-expenditure of Kes. 137,375,000 or 16% of the budget. In addition, sale of electricity from Garissa Solar Plant of Kes. 487,394,000 reflected in Note 11 to the financial statements was not supported by budgetary provision on sales of power.

The underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

104. The statement of comparison of budget and actual amounts expended amount of Kes. 744,199,000 against final expenditure budget of Kes. 881,574,000 resulting to an under-expenditure of Kes. 137,375,000 or 16% of the budget. The actual expenditure for the year ended 30th June 2021 amounted to Kes. 744,199,000 against a final budget of Kes. 881,574,000, resulting in an under-expenditure of Kes. 137,375,000, equivalent to 16% of the budget.

105. The budget votes that contributed to this under-expenditure were analyzed and explained under the Statement of Comparison of Budget and Actual Amounts for the year ended 30th June 2021. The main reason for the under-expenditure was the impact of the COVID-19 pandemic, which disrupted planned activities resulting to under-absorption of allocated funds. In addition, sale of electricity from Garissa Solar Plant of Kes. 487,394,000 reflected in Note 11 to the financial statements was not supported by budgetary provision on sales of power.

106. The Garissa Solar Power Plant was commissioned in December 2019, and power sales are made to Kenya Power and Lighting Company (KPLC). The printed estimates did not contain revenues from Garissa solar power sales and hence it was not possible to appropriate it through the adjusted budget. However, the same was considered through supplementary no. 2 estimates of

2021 and approved by the board. The revenues were included in the Corporation's budget for the financial year 2020/2021. It is important to note that the revenue of Kes. 487,394,000, generated from the sale of power from the Garissa Solar Plant, is remitted directly to an escrow account established for the repayment of the project loan. As such, these funds are not available to finance the Corporation's operational activities.

Committee Observation and Recommendation

107. The Committee observed during the examination that the under-expenditure of the approved budget was attributed to the COVID-19 pandemic, which disrupted the Agency's activities. Further, revenue generated from the sale of power at the Garissa Solar Power Plant was remitted to an escrow account for servicing the project loan. Therefore, the matter stands resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES.

12.0 Delay in Implementation of Projects

108. Review of the project status report indicated that the Corporation was in the process of implementing four hundred and thirty-six (436) projects at a total cost of Kes. 2,937,355,534. Physical verification of some of the projects on 18 February, 2022 revealed delay in implementation of the projects.

In the circumstances, value for money has not been realised due to the delay in implementation.

Management Response

109. The Corporation acknowledged the audit observation regarding delays in the completion and commissioning of certain projects. While efforts had been made to implement the projects within the stipulated timelines, several challenges were encountered during implementation, as outlined below, along with the measures taken to mitigate them:

i) Prolonged wayleave acquisition processes, requiring extended negotiations and stakeholder engagement
Mitigation: The Corporation strengthened community and stakeholder engagement mechanisms and collaborated more closely with local administration and landowners to expedite wayleave approvals. The management has created new departments to deal with wayleaves matters, geospatial and advocacy, which ensure fast acquisition of wayleaves.

ii) Challenging site terrain conditions, which affected accessibility and required engineering adjustment

Mitigation: Technical teams conducted detailed site assessments and adopted alternative design solutions to adapt to the terrain, including re-routing and use of specialized construction techniques where necessary.

iii) Late remittance of the Exchequer

Mitigation: This is beyond the corporation's control.

They have since completed and commissioned the projects.

Committee Observation

110. The Committee observed that management had encountered several challenges in the implementation of the projects. However, the majority of the projects had since been completed and commissioned, with the remaining ones disclosed under the work-in-progress (WIP) report.

111. Further, the Committee observed that management had developed a performance management system to guide project implementation.

Committee Recommendation

112. The Committee recommends the OAG to keep the matter in view in future audit cycles to check the status of the work-in-progress (WIP) projects.

13.0 Irregular Utilization of Petroleum Development Levy Funds

113. Note 8 to the financial statements indicates that the Corporation received an amount of Kes. 1,359,000,000 from the Petroleum Development Fund which were utilized on implementation of two hundred and forty-five (245) rural electrification projects. This was contrary to Section 4(4) of the Petroleum Development Fund Act, 2012 which states that there shall be paid out of the Petroleum Development Funds such monies as are necessary for the development of common facilities for distribution or testing of oil products and matters relating to the development of the oil industry.

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

Management Response

114. It is true that the corporation received an amount of Kes. 1,359,000,000 from the Petroleum Development Fund which were utilized on implementation of two hundred and forty-five (245) rural electrification projects. Section 53. (1)(b) Identifies funds of the Corporation to include such monies as may, from time to

time, be appropriated by Parliament for that purpose. In the FY 2020/21 Parliament appropriated Kes.1,359,000,000 being Petroleum Development Levy through the printed estimates. The same was done and the funds were utilized for electrification of 245 number projects.

Committee Observation and Recommendation

115. The Committee observed that REREC utilized the money allocated to the agency in accordance with the budget. The agency was not privy to the source of the funds appropriated to the agency. Therefore, the matter stands resolved.

116. The Committee further recommends that the National Treasury should ensure that monies ringfenced for a specific purpose in accordance with stipulated laws should be utilized for the intended purpose.

14.0 Unconnected Customers

117. Review of the project status report and verification of sampled projects revealed that fifty-one (51) projects valued Kes. 220,898,613 had been completed and commissioned by the corporation. However, the metering and connection of target customers to power by Kenya Power Company Limited had not been done as required by the Service Level Agreement (SLA).

In the circumstances, value of money on these projects could not be confirmed.

Management Response

118. As observed by the audit, there were customers that had not been connected and metered at the time of the audit. Over time, these customers have been connected and metered. To ensure that customers are connected on time, the Corporation has been engaging with KPLC very closely. The list of targeted Customers is communicated to KPLC at the onset of project implementation and a reviewed list of connected Customers shared with KPLC on monthly basis.

Committee Observation

119. The Committee observed during the examination that Rural Electrification and Renewable Energy Corporation (REREC) had implemented its part of the projects, and that it was the responsibility of Kenya Power and Lighting Company (KPLC) to connect customers to power. The Committee noted that a section of the customers had already been connected, while others were still awaiting meter installation.

Committee Recommendation

120. The Committee directs the Office of the Auditor-General (OAG) to audit the unconnected customers from the Kenya Power and Lighting Company (KPLC) end, as the mandate for customer connections falls within their jurisdiction. Therefore, the matter stands resolved for REREC.

121. In furtherance to the principle of value for money, the Committee recommends that REREC should, in undertaking such projects as indicated in this audit query, include installation of meters before handing over of the projects to KPLC for management.

15.0 Delayed Replacement of Defective Poles

122. During the financial year under review, eighteen thousand, seven hundred and fifty-six (18,756) defective poles were reported and in March, 2022 verification revealed replacements of only fifteen thousand and thirty-five (15,035) resulting to three thousand, seven hundred and twenty-one (3,721) un-replaced poles. In addition, the procurement of the poles was not supported with contract documents, tender evaluation report and inspection and acceptance committee reports.

In the circumstances, value for money has not been realized.

Management Response

123. The replacement of poles relates to treated wooden poles delivered from 2019 by various suppliers, which were discovered to contain low chemical retention. Our process requires that the poles be inspected and tested prior to acceptance, however, there was a problem in the testing of the poles by the Wood Scientist who determined that they met the minimum requirements and the poles were accepted. At the time of audit, a total of 18,756No poles were flagged as defective and the eighteen (18) affected suppliers were asked to replace the same. Consequently, sixteen (16) suppliers replaced a total of 15,035No poles leaving a balance of 3,721No poles attributed to two (2) suppliers.

124. As a result of this failure in the inspection process, disciplinary action was meted against the Inspection and Acceptance Committee while the Wood Scientist, who was subject matter expert in the committee was dismissed. The Corporation was however, unable to sustain a cause of action against the two suppliers since the poles had been officially accepted. They have since

provided the respective contracts, evaluation reports, and the inspection and acceptance reports to the auditor.

Committee Observation

125. The Committee observed that the management had taken steps to remedy the situation and a total of 15,035 poles were replaced. However, 3,721 poles were not replaced leading to blacklisting of two contractors and firing of the wood scientist who inspected the poles.

126. Further, the Committee observed that the management submitted Contracts, evaluation reports and the inspection and acceptance reports of the poles.

Committee Recommendation

127. Within three (3) months upon adoption of this report, the Accounting Officer should submit a status report on the replacement of 3,721 poles and the efforts made to recover the poles.

16.0 Abandoned Project

128. The contract for proposed building and civil works of go-down, ablution block, perimeter wall, yard and cabro pavement in Kisumu was awarded at a contract cost of Kes.123,000,000 on 11 May, 2017 for a duration of thirty (30) weeks. Inspection of the project on 30th March 2022 revealed that there were no ongoing activities and the contractor was not on site after partly constructing perimeter wall and one go-down. Management terminated the contract through a letter dated 30 March, 2022 but no evidence of re-tendering was provided for audit. Further, the cost incurred so far had not been reflected under capital work in progress.

In the circumstances, value for money for this project has not been realized.

Management Response

129. The contract for the foregoing works was terminated after the contractor failed to complete the project in time. Following the termination, an assessment was done by the State Department of Works, who valued all work done at Kes.46,873,098.77. In the course of implementation of the project, the Corporation had raised Payment Certificates of Kes.49,974,067.52 from where it had paid Kes. 44,976,660.77 and retained Kes.4,997,406.75 from where the over certification of Kes. 3,100,968.75 was recovered.

130. Subsequently, the Corporation redesigned the project to accommodate its growing staffing needs, which called for a bigger office block, and a transformer testing facility, which were previously not covered in the earlier design. The project was subsequently competitively procured and awarded to a contractor, and the works are progressing well. It is envisaged that the works will be completed by December 2025.

Committee Observation

131. The Committee observed at the time of examination that the project was retendered and the works were ongoing and classified under the Work in Progress.

Committee Recommendation

132. Within three (3) months of adoption of this report the Accounting Officer should submit a status report of the project to the OAG for verification.

17.0 Non-remittance of Taxes

133. The Corporation earned from Garissa Power Plant sale of power valued at Kes.189,040,868 which was paid into escrow account as required by the project financing agreement. However, necessary Value Added Tax was not withheld and remitted to Kenya Revenue Authority as required by Value Added Tax Act, 2013

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

Management Response

134. As observed by the audit, the corporation earned from Garissa Power Plant sale of power valued at Kes.189,040,868 which was paid into escrow account as required by the project financing agreement. However, necessary Value Added Tax was not withheld and remitted to Kenya Revenue Authority as required by Value Added Tax Act, 2013. The corporation is currently generating revenue arising from sale of power from Garissa solar power plant. This revenue is usually deposited into an Escrow Account which the corporation is not a signatory to. The same attracts Value Added Tax (VAT) which is payable to Kenya Revenue Authority.

135. Since the revenue is deposited into the Escrow Account, the corporation sought advice from the National Treasury through the Ministry of Energy where a meeting was held between National Treasury, Kenya Revenue Authority, REREC and Exim Bank of China where it was agreed that:

1. REREC to seek approval from National Treasury to have an amount of VAT remitted directly to Kenya Revenue Authority being settlement of VAT that has accrued so far by Kenya Power and Lighting Company limited.
2. Further, KPLC to withhold the full amount of VAT (i.e. 16%) and remit it to KRA and deposit amount net of VAT to the Escrow Account.

136. The Corporation complied and sent a letter Ref. REREC/F/NT/2022/dc dated 26th April, 2022. The Ministry of Energy forwarded REREC request for approval for remission of VAT to Kenya Revenue Authority by Kenya Power and Lighting Company via letter Ref. No. ME/CONF/170 dated 6th May, 2022 to the National Treasury. The National Treasury via letter Ref: TNT/RMD/214/78/03/S. VOL.VI (5) directed as follows;

    1. KPLC to remit USD 2,360,086.62 direct to Kenya Revenue Authority out of the unpaid invoices from REREC to settle the outstanding VAT on paid invoices.
    2. Going forward to be submitting VAT charged on invoices to KRA and remit the net amount to the Escrow Account. REREC shall continue the obligation of filling monthly VAT returns.
    3. REREC started filling the monthly VAT returns in the month of July 2022.

    Kenya Power and Lighting Company has since paid the VAT amount of Kes.289,132,950 on behalf of REREC and continues to withhold and pay the taxes on behalf of REREC.

Committee Observation and Recommendation

137. The Committee observed from the submissions by the Accounting Officer, that the Kenya Power and Lighting Company (KPLC) had since settled the previously non-remitted tax. Currently, KPLC are withholding the 16% Value Added Tax (VAT) at source and remitting directly to the Kenya Revenue Authority (KRA). Therefore, the matter stands resolved.

18.0 Over-Representation in Committees

138. The Corporation's four (4) committees had five (5) members each as opposed to the maximum of four (4). This was contrary to Paragraph B (4) of the Head of Public Service circular Ref. OP/CAB.9/1A dated 11 March, 2020 on management of State Corporations which states that the number of members to any committees should be no more than one-third (1/3) of the full board which translates to four (4) members. There was no evidence of approval by

the cabinet secretary in consultation with SCAC as required by the circular for increase in the number of members of the committees.

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

Management Response

139. The Corporation acknowledges the observation regarding the composition of Board Committees. It is correct that four (4) committees previously established by the Board each comprised five (5) members. However, the constitution of these Board Committees took place on 15th February 2019, which was prior to the issuance of the Head of Public Service Circular Ref. OP/CAB.9/1A dated 11th March, 2020 on the management of State Corporations. Upon receipt of the Circular, the Corporation took steps to align with the prescribed governance guidelines. The Board Committees were subsequently reconstituted to comply with Paragraph B (4) of the Circular, which limits committee membership to not more than one-third of the full Board.

Committee Observation and Recommendation

140. The Committee observed at the time of Examination that Board Committees were reconstituted to align with the Head of Public Service Circular on the management of State Corporations hence the matter stands resolved.

FINANCIAL YEAR 2021/2022

In FY 2021/2022 the Auditor General issued the Corporation's Management with a qualified opinion on several matters as outlined below;

19.0 Unsupported Trade and Other Payables from Exchange Transactions

141. The statement of financial position reflects trade and other payables from exchange transactions balance of Kes. 2,251,270,000 as disclosed in Note 35 to the financial statements. The balance includes unsupported and un-invoiced trade creditors amount of Kes.1,193,980,000 which was not supported by ledgers or any other form of documentation. Further, included in the balance is an amount of Kes. 830,000,000 relating to payables which had been outstanding for more than ninety (90) days.

142. In the circumstances, the accuracy and completeness of trade and other payables from exchange transactions balance of Kes 2,251,270,000 could not be confirmed.

Management Response

143. As observed in the Audit, Trade and other Payables from exchange transactions of Kes. 2,251,270,000. Management responds to each issue as follows: -

i) The amount includes trade creditors not invoiced of Kes.1,193,980,284. Un-invoiced creditors Kes.1,193,980,284 refer to amounts of Local purchase orders, Goods Received Notes posted in GR/IR Accounts and service entry sheet created and issued to suppliers of goods and services. This process creates a payable situation in the system leaving an impression that Creditors have not been Paid. When invoices are received, the same are posted to the system through the orders and service entry sheets.

ii) As observed in the Audit, invoiced and ageing analysis of an amount of Kes.830,000,000 relates to payables that had been outstanding for over ninety (90) days. Explanation on the reasons for non-payment includes labour and transport retention with defect liability period of 6 months, solar PV and street lightings, payments with defect liability period of 1 year extending payment period to over 180 days.

Committee Observation

144. The Committee observed that the management had submitted explanations regarding the variances between the ledgers and the financial statements, however evidence was not provided to support the explanation.

Committee Recommendation

145. Within three months upon adoption of the report, the Accounting Officer to submit the creditors support ledgers in line with section 68(2) (b) of the Public Finance Management Act, Cap 412A to the OAG for verification.

20.0 Inaccuracy of Receivables from Exchange Transactions

146. The statement of financial position and as disclosed in Note 28(a) to the financial statements reflects receivables from exchange transaction of Kes.1,160,820,000 which included advances to vendors totaling to Kes.660,818,000 in respect of contracts for works, goods, and services that had been completed. However, the advances had not been recovered and the

respective ledgers were not updated with the completed works, goods, and services. Further, the balance includes rent deposits balance of Kes.14,627,000 out of which a balance of Kes.14, 437,436 was in respect to expired leases whose refunds had not been received or leases renewed.

In the circumstances, the accuracy and completeness of receivables from exchange transactions balance of Kes.1,160,820,000 could not be confirmed.

Management Response

147. The total advances amounted to Kes. 1,072,892,532.22 before recoveries. The recoveries had been done to the extent of invoices received and this was reported in the financial statements. The adjustments done for the recoveries amounted to Kes.660,818,377.3. The deposits-rent amount of Kes.14,437,436 is still in force and recoverable since the leases and licences were renewed with the same landlords.

148. The Corporation rents several facilities to support the achievement of its mandate. These include the following:

No.	Name of facility	Lease period
1	Nakuru regional office	01/12/2019 - 31/112025 (6 years)
2	Eldoret regional office	15/07/2015-14/7/2021(6 years) 15/7/2021-30/06/2024(3 years)
3	Awasi yard	1/12/2015 - 30/11/2020(5 years) 2/12/2022 - 30/06/2023(2 years 3 months)
4	Makuyu Yard	01/07/2020- 30/06/2021(1 year) 1/07/2021 - 30/06/2023 (2 years)
5	Mombasa road store	1/10/2020-31/12/2025 (5 years 3 Months)
6	Nyeri Office	1/01/2017- 31/12/2021(5 years) 1/01/2022 - 13/10/2023(5 years)

The deposit is still in force and recoverable since the leases were renewed with the same landlords.

Committee Observation

149. The Committee observed at the time of examination that the management had signed lease agreements which had expired; thus, the deposits remained valid and are to be recovered in the future. The other receivables related to work-in-progress (WIP), which were secured by a security bond and performance bond, and the contract were still in force.

Committee Recommendation

150. The Committee directs the OAG to keep the matter in view in future audit cycles.

21.0 Inaccuracies in Property, Plant and Equipment

21.1 Unsupported Overhead distribution Lines

151. The statement of financial position and as disclosed in Note 32 to the financial statements reflects property, plant and equipment balance of Kes.105,433,499,000 which includes additions to overhead distribution lines amounting to Kes.4,356,078,000 whose breakdown and details indicating the contract sum, starting date and completion dates, payments made and current status were not provided for audit. Management did not provide a fixed assets register to support the balance and the amount did not originate from work in progress account, yet it related to construction works. Further, an amount of Kes.5,153,899,000 was capitalized under overhead distribution lines. However, the amount was not supported with a detailed schedule of the projects, certificates of completion and commissioning.

Management Response

152. The reported amount of Kes.4,356,078,000 in the financial statements were projects undertaken and completed within the year under review and were not part of the opening work in progress balances. The process of project identification, design cost allocation through work breakdown structures (costing), implementation, technical closure and capitalization were performed during the financial year 2021/2022. The breakdown and details indicating the contract sum, starting and completion dates, payments made and current status for additional to overhead distribution line of Kes.4,356,078,000 has since been provided.

A sampled certificate of completion and commissioning has since been provided.

Committee Observation and Recommendation

153. The Committee observed during the examination that management had an asset register in place, and that works-in-progress (WIP) projects were properly recorded. Therefore, the matter stands resolved.

21.2 Capital Work in progress

154. Included in the property, plant and equipment balance of Kes.105,433,499,000 is capital work in progress balance of Kes. 17,178,348,000 which includes some projects that were initiated six (6) years ago and which remained incomplete. Included in the balance were additions amounting to Kes. 6,281,191,000 which had no detailed breakdown of the projects name, location, date of inception, contract sums, amount paid to date and as status of the projects. Further, Management did not provide detailed movement schedule indicating each project opening balance, additions during the year, closing balance and the project status report as at 30 June 2022.

Management Response

155. The Corporation acknowledges the audit observation regarding delays in the completion and commissioning of certain projects as included in the capital work in progress balance of Kes. 6,281,191,000. A detailed breakdown of the project name, location, date of inception, contract sum, amount paid to date and status of the additional projects amounting to Kes. 6,281,191,412 was provided.

156. While efforts had been made to implement the projects within the stipulated timelines, several challenges were encountered during implementation, as outlined below, along with the measures taken to mitigate them:

i) Prolonged wayleave acquisition processes, requiring extended negotiations and stakeholder engagement
Mitigation: The Corporation strengthened community and stakeholder engagement mechanisms and collaborated more closely with local administration and landowners to expedite wayleave approvals. The management has created new departments to deal with wayleaves

matters, geospatial and advocacy, which ensure fast acquisition of wayleaves.

ii) Challenging site terrain conditions, which affected accessibility and required engineering adjustment

Mitigation: Technical teams conducted detailed site assessments and adopted alternative design solutions to adapt to the terrain, including re-routing and use of specialized construction techniques where necessary.

iii) Late remittance of the Exchequer

Mitigation: This is beyond the corporation's control.

We have since completed and commissioned the projects.

Committee Observation and Recommendation

157. The Committee observed during the examination that management had an asset register in place, and that works-in-progress (WIP) projects were properly recorded. Therefore, the matter stands resolved.

21.3 Unsupported Expenditure on Land survey services

158. Included in the work in progress balance of Kes. 17,178,348,000 is additions to capital work in progress amounting to Kes. 6,281,191,000 out of which Kes. 430,000,000 was paid to three (3) firms for land survey services to unspecified projects in the year under review while an amount of Kes. 571,062,727 was paid in the previous year resulting in total payments of Kes. 1,001,062,727 for unspecified projects being included under capital work in progress. In addition, there was no evidence of budgeting for the services, their inclusion in the annual procurement plan and competitive procurements. Further, the services were not supported by local service orders, contract agreement and reports by the three (3) firms indicating the topographical maps and way leaves.

In the circumstances, the accuracy and completeness of property, plant and equipment balance of Kes.105,433,499,000 could not be confirmed.

Management Response

159. The corporation budgets for survey services as part of its total projects' costs (Materials, Labour and transport and Survey and design costs) from the appropriated budget under the vote line of Electrification of public facilities and transformer maximization approved by the National Assembly. The three firms engaged for the survey services had been competitively prequalified

under the corporation's framework agreement for survey and wayleaves services.

160. The amounts in question relates to irregular survey services which had been charged to already completed projects. However, the Board was presented with an Internal Audit report alleging the loss of funds during its 47th Special Board meeting held on 3rd August, 2022. The Board during the 47th meeting made a raft of recommendations among others that, thorough investigations be undertaken to ascertain the extent of loss incurred by the Corporation through fraudulent payments made to the three survey companies.

161. Consequently, on 8th August, 2022, the Corporation wrote to the Ministry of Energy requesting the Ministry to invite the Directorate of Criminal Investigations (DCI) or any other relevant body the Ministry may find suitable to undertake the investigations into the fraudulent payments. On 8th August, 2022, the Ministry of Energy wrote to the Directorate of Criminal Investigations to undertake investigations. Further, the Board made resolutions on administrative action to be taken against staff who had been implicated. Consequently, five staff were dismissed.

Mitigation measures by management

162. The management has since taken actions to mitigate future recurrence. They include;

i) Under the Survey Services;

163. The Corporation has since ceased the engagement of contracted surveyors and has instead established a fully-fledged Geospatial department responsible for conducting internal Geospatial services such as Route Surveys, Wayleave Acquisition, and Route Pegging, which were previously outsourced to Frame contractors. To ensure proper management, the Corporation has implemented internal controls, including issuing instructions for surveys (via Design and Survey Memo), preparing Back-to-Office reports (BTOR) after fieldwork, submitting engineering survey drawings, delivering survey maps obtained from the director of surveys office, providing a detailed list of customers (beneficiaries), and delivering acquired wayleave consents and related documentation.

ii) Under ICT;

164. The Management acknowledges that weaknesses in SAP ECC 6.0—particularly the misuse of the UNTECO function was identified as the main weakness. In SAP Project Systems, TECO (Technically Complete) marks a project or WBS element as closed, preventing further transactions like payments or procurements. UNTECO reverses this status, reopening the project to allow new transactions. UNTECO is useful for correcting genuine errors but highly sensitive and risky if misused. This sensitive function was abused to reopen closed projects and process fictitious activities and payments.

165. To address this, the Management revoked the UNTECO rights from all users and vested them solely in the General Manager, Power Distribution and Regional coordination with written approval from CEO. All such actions are now logged and reviewed for compliance by the ICT manager. Further, all user rights in SAP were stripped and reconfigured based on a strict Role-Based Access Control (RBAC) model to eliminate privilege creep and enforce segregation of duties. To strengthen system integrity and prevent recurrence, the Management implemented a formal SAP rights form approval which ensures that any modification to user roles or system behaviors is subject to a structured request, risk analysis, and dual-level approval.

Follow-up and Disclosure Measures:

166. The matter remains under active investigation by the Directorate of Criminal Investigations (DCI). In the interim, the Corporation has continued to cooperate fully with the investigative authorities. To uphold transparency and accountability, the amount under investigation has been appropriately disclosed in all subsequent financial statements in accordance with applicable reporting standards. The Corporation remains committed to implementing any further recommendations that may arise upon the conclusion of the investigations.

Committee Observation

167. The Committee observed from the explanation provided by the Accounting Officer, that Rural Electrification and Renewable Energy Corporation (REREC) had dismissed five staff members who were involved in the irregular

expenditure related to land surveying, and that investigations were still ongoing under the Directorate of Criminal Investigations (DCI).

168. The Committee observed that the management had instituted measures to prevent future loss of funds in survey services that included; establishment of a fully-fledged Geospatial department and streamlining the approval process in the ICT department where only the General Manager has the UNTECO rights.

Committee Recommendation

169. The Committee directs the OAG to carry out an audit on the ICT (SAP-ERP) system to confirm whether controls are in place and the rights for all staff have been revoked and only the General Manager has the right to grant approvals.

170. The OAG to submit the report to Parliament within three (3) months upon adoption of the report.

171. Within three (3) months upon adoption of this report, the Accounting Officer to submit a status report on the dismissed staff and the status of the ongoing investigations by the DCI to the OAG for verification.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

22.0 Irregular Utilization of Petroleum Development Levy Funds

172. Review of the financial records revealed that the corporation received an amount of Kes. 1,740,000,000 from the Petroleum Development Levy Funds which were utilized on implementation of rural electrification projects. This was contrary to section 4(4) of the petroleum development fund act, 2012 which states that there shall be paid out of the Petroleum Development Levy Funds such monies as are necessary for the development of common facilities for the distribution or testing of oil products and for matters relating to the development of oil industry. Further, there was no evidence of budgeting for the expenditure, their inclusion in the annual procurement plan and competitive procurement contrary to section 45(3)(a) of the public procurement and asset disposal act, 2015 which states that all procurement processes shall be within the approves budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan.
In the circumstances, management was in breach of the law.

Management Response

173. It is true that the corporation received an amount of Kes. 1,740,000,000 from the Petroleum Development Fund which were utilized on implementation of rural electrification projects. Section 53. (1)(b) Identifies funds of the Corporation to include such monies as may, from time to time, be appropriated by Parliament for that purpose. In the FY 2021/22 Parliament appropriated Kes. 1,740,000,000 being Petroleum Development Levy through the printed estimates. The same was done and the funds were utilized for on implementation of rural electrification projects.

Committee Observation and Recommendation

174. The Committee observed that REREC utilized the money allocated to the agency in accordance with the budget. The agency was not privy to the source of the funds appropriated to the agency. Therefore, the matter stands resolved.

175. The Committee further recommends that the National Treasury should ensure that monies ringfenced for a specific purpose in accordance with stipulated laws should be utilized for the intended purpose.

23.0 Unaccounted for Development Grants

176. Review of Financial records revealed that the corporation received an amount of Kes.2,560,000,000 as grants from the ministry of energy. However, management did not provide documents to support how the grants were accounted for. Further, there was no evidence of budgeting for the capital grants, their inclusion in the annual procurement plan and competitive procurement. This was contrary to section 45(3)(a) of the public procurement and asset disposal act, 2015 which states that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan.
In the circumstances, management was in breach of the law.

Management Response

177. The development grants amounts were granted through petroleum development levy and exchequer development and were used to finance planned projects during the financial year. The grants were budgeted for in the corporation budget for the FY 2021/2022. Upon approval of the budget, the

same was included in the procurement plan as required by section 45(3) of the public procurement and asset disposal act, 2015.

Committee Observation and Recommendation

178. The Committee observed from the submission by the Accounting Officer that the funds were granted through the Petroleum Development Levy for development purposes. These funds were used to finance planned projects during the financial year, and the allocations were included in the approved procurement plan hence the matter stands resolved.

24.0 Abandoned Project

179. Review of record revealed that the corporation awarded the contract for the building and civil works of a go-down, ablution block, perimeter wall, yard and cabro pavement in Kisumu at a contract cost of Kes. 123,000,000 on 11 May 2017 for a duration of thirty (30) weeks. HOWEVER, Physical verification of the project conducted on 30 March 2022 revealed that there were no ongoing activities and the contractor was not on site after partly constructing perimeter wall and one go-down. Management terminated the contract through a letter dated 30 march 2022 but no evidence of retendering was provided for audit. Further, the cost incurred so far had not been reflected under capital work in progress.

In the circumstances, the value for money on the amount of Kes. 123,000,000 incurred on this project could not be confirmed.

Management Response

180. The contract for the foregoing works was terminated after the contractor failed to complete the project in time. Following the termination, an assessment was done by the State Department of Works, who valued all work done at Kes.46,873,098.77. In the course of implementation of the project, the Corporation had raised Payment Certificates of Kes.49,974,067.52 from where it had paid Kes. 44,976,660.77 and retained Kes.4,997,406.75 from where the over certification of Kes. 3,100,968.75 was recovered.

181. Subsequently, the Corporation redesigned the project to accommodate its growing staffing needs, which called for a bigger office block, and a transformer testing facility, which were previously not covered in the earlier

design. The project was subsequently competitively procured and awarded to a contractor, and the works are progressing well. It is envisaged that the works will be completed by December 2025.

Committee Observation

182. The Committee observed at the time of examination that the project was retendered and the works were ongoing and classified under the Work in Progress.

Committee Recommendation

183. Within three (3) months of adoption of this report the Accounting Officer to submit a status report of the project to the OAG for verification.

25.0 Unapproved Investment of Surplus Funds

184. Review of financial records revealed that the Company had a fixed deposit investment of Kes. 1,730,427,000 invested in three (3) bank accounts. However, the investment was not approved by the cabinet secretary in charge of the National Treasury as required by circular no.22/2019 of 20 December 2019. Further, management did not seek approval for opening and operating the bank accounts from the national treasury as required by section 28 of the public finance management act, 2012.

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

Management Response

185. As observed by the Audit, an amount of Kes. 1,730,427,000 was held in call deposits accounts and not fixed deposit investments, across three (3) commercial banks. These funds were received during the financial year to support project implementation and other key activities, including electrification of public facilities, and were not idle or surplus funds. Section 23 of the National Treasury's circular No. 22/2019 states that in accordance with section 28(1) of the PFMA, no state corporation should invest surplus funds in any financial institution/bank without prior approval of the National Treasury and planning, other where the investments are in Treasury bills/bonds.

186. The corporation's interpretation of the above section of the National Treasury's Circular is that there were no surplus funds, that would occasion seeking for Cabinet Secretary's Approval, the monies in the Bank accounts were deposits made in anticipation of settling payments arising out of

procurement of Project materials and other key services. In order for the cash deposit not to lie idle, management placed the monies on call account in competitively negotiated rates with the banks, this means that the monies were not placed in a fixed deposit account, but call accounts which was budgeted for under interest income and approved by the Board

187. Section 53(1) of the Energy Act, 2019 identifies funds of the corporation as shall consist of: -

a) Monies from Rural Electrification Programme fund as per Section 143.
b) Such monies as may be appropriated by Parliament from time to time.
c) Monies allocated from the consolidated energy fund for promotion and development of renewable energy initiatives.
d) Interest from bank deposits.
e) Revenues from other sources including loans, grants, gifts or donations approved by the Cabinet Secretary.

It is therefore on the basis of Section 53(1)(d) that the corporation negotiated and placed the funds on call account.

188. The funds were temporarily placed on call to preserve their value during the period between receipt and disbursement, pending completion of procurement processes and contractor mobilization. This approach ensured continued operational readiness while safeguarding the financial interests of the Corporation. Interest income generated from the call deposits was recognized and disclosed in the Corporation's financial statements, in line with Section 44(3) (a) of the Energy Act, 2019, which designates such income as an approved source of revenue for the Corporation. All bank accounts are operated in accordance with the Public Finance Management Act, 2012, and approvals from the National Treasury have been obtained in compliance with Section 28 of the Act.

Committee Observation

189. The Committee observed from the explanation by the Accounting Officer, that the funds were not surplus and were therefore not invested in fixed deposit accounts. Instead, they were placed in an interest-earning call accounts to preserve their value pending disbursement to the intended projects. The interest earned was duly recognized in the Corporation's financial statements.

Committee Recommendation

190. The Committee recommends that since the management adhered to the Public Finance Management Act, Cap 412A and obtained the required approval from the National Treasury, the matter stands resolved.

FINANCIAL YEAR 2022/2023

In FY 2022/2023 the Auditor General issued the Corporation's Management with a qualified opinion on the matters as noted below;

26.0 Unconfirmed Court Deposits

191. The statement of financial position reflects current portion of receivables from exchange transactions balance of Kes. 793,982,000. As disclosed in Note 28 to the financial statements, the balance includes Kes. 55,000,000 in respect of court case deposit arising from dispute between a supplier of conductors and the Corporation. The court instructed the deposit to be made in a joint account held by the advocates representing the Corporation and the supplier. The existence of these monies held in the joint account of the advocates could not be confirmed since no confirmation of the bank balance was provided for audit verification. Further, even though the Corporation never filed or appealed against this case, an additional Kes. 5,000,000 was deposited in court through its advocates as a condition for appeal on the case in 2015.

In the circumstances, the recoverability and ownership of court deposits totaling Kes. 55,000,000 could not be confirmed.

Management Response

192. The Plaintiff in Nairobi HCCC No. 541 of 2012 instituted proceedings against the then Authority on 24.08.12 claiming the sum of Kes. 30,477,023.00 plus interest at the rate of 18% from 23.10.11 and costs, being the sums due and owing in respect of goods delivered to the then Authority sometime in 2012. The Plaintiff's claim is for refund of customs duty differential amounts. The Plaintiff further alleged that the tender sums paid included custom duty at the rate of 10%, yet it paid 25% following the East African Community Gazette dated 22nd March, 2011 which increased the duty from 10% to 25%.

193. On 18th November, 2014, the High Court entered judgment against the then Authority for Kes. 30,477,023, interest at 18% effective from 23rd October, 2011 until payment in full and costs with interest thereon. On 18th June, 2015, the

Plaintiff sought to execute the judgment against the Authority. The Authority moved the Court seeking for stay of execution. On 30th June, 2015, the Court issued orders and among others directed that the sum of Kes. 5,000,000.00 be deposited in court by 6/7/2015 pending the hearing of the application on the stay of execution. On 4th February, 2016, the Court stayed the execution of the decree on condition that the then Authority deposits the sum of Kes. 50,000,000.00 in a joint interest earning account in the names of the Advocates representing the parties within 30 days of the ruling. Consequently, the Authority complied with both orders of the Court.

194. The Corporation sought for an opinion from its Advocates on the chances of success of the matter if the same were to proceed to appeal. This was against the backdrop of a similar matter being settled on the opinion that the chances of success at appeal were slim. Given this position, the Advocate was under instruction to engage the Plaintiff's lawyers in a bid to conclude the matter. However, in the year 2022, it was brought to the Corporation's attention that the Plaintiff had two set of lawyers fighting over its representation. Once this was resolved by the Court, the Plaintiff's now Advocates made an application for the release of the money deposited in the joint interest account culminating to the orders of the Court issued on 22nd May, 2023.

Current status

195. Pursuant to the ruling of the Court dated 22nd May, 2023, the court issued orders among others that the sum of Kes. 45,000,000.00 together with interest so far accrued in the joint account be released to the Plaintiff's Advocates. The Court further ordered that the balance thereof to continue to be held in the joint account in accordance with the orders of the court of 25.02.2016. In order to ascertain the amounts being held in the joint account, the Corporation has made an application seeking for a Sealed Court order. The ruling to this application will be delivered on Notice. The amount of Kes. 5,000,000.00 is still being held in court pursuant to the Court order dated 30.06.2015.

Committee Observation

196. The Committee observed that from the ruling of the Court dated 22nd May, 2023, the court issued orders that the sum of Kes. 45,000,000.00 together with interest accrued in the joint account be released to the Plaintiff's Advocates. Further, the Court ordered that the balance thereof to continue being held in the joint account in accordance with the orders that were issued by the court on 25th February, 2016.

197. The Committee however noted that the management had not submitted evidence to support the court deposits.

Committee Recommendation

198. Within three (3) months upon adoption of this Report, the Accounting Officer should submit proof of deposit for the Kes. 5,000,000 and bank details and receipt relating to the Kes. 50,000,000 to the OAG for verification.

27.0 Unsupported Trade and Other Payables from Exchange Transactions

199. The statement of financial position reflects trade and other payables from exchange transactions balance of Kes. 2,367,381,000. As disclosed in Note 35 to the financial statements, the balance includes trade creditors amounting to Kes. 1,334,790,000 which was not supported by invoice, ledgers or any other form of documentation. The balance is an increase of Kes. 140,810,000 compared to the previous year reported balance of Kes. 1,193,980,000. Further, included in the balance is an amount of Kes. 1,030,176,000 relating to payables which had been outstanding for more than ninety (90) days.

In the circumstances, the accuracy and completeness of the trade and other payables from exchange transaction balance of Kes. 1,334,790,000 could be confirmed.

Management Response

200. The management responds to each issue as follows;

i) The amount of Kes. 1,334,790,000 for trade creditors not invoiced refers to amounts of local purchase orders, goods received notes posted in GRIR ledger account and service entry sheet created and issued to suppliers of goods and services awaiting online invoicing by the vendor. This process creates a payable situation in the system leaving an impression that creditors have not been paid. When the supplier invoices for goods delivered, inspected and accepted, the same are posted in the system through the order and service entry sheet clearing the creditor's obligation/liability. The management is in the process of reconciling the amounts in the GRIR accounts with a view to settling the un-invoiced creditors in the system.

ii) The amount of Kes. 1,030,176,000 relating to payables which had been outstanding for more than ninety (90) days is as a result of labour and transport retention fee with defect liability period of 6 months, solar PV and street lighting payments with defect liability period of 1 year extending payment period to over 180 days

Committee Observation

201. The Committee observed, based on the explanation provided by the Accounting Officer that a policy was in place regarding retention amounts, which were set at 10% of the total contract sum.

202. The Committee further observed that ledger payments were processed manually and that, due to the controls in place, it was not possible for an invoice to be paid more than once.

203. The Committee noted the management was in the process of updating the SAP system to enable all the ledger entries to be posted electronically in the future.

Committee Recommendation

204. Within three (3) months upon the adoption of this report, the Accounting Officer should submit a status report to the OAG on the transition of ledger entries from a manual process to electronic posting in the SAP system.

28.0 Inaccuracies in Property, Plant and Equipment

28.1 Doubtful Training Expenditures

205. The statement of financial position reflects property, plant and equipment balance of Kes. 107,662,450,000 as disclosed in Note 32 to the financial statements. The balance includes additions to computers amounting to Kes. 99,002,000. An expenditure amounting to Kes. 3,910,156 was paid as daily subsistence allowances and air tickets to Dubai to three staff to be trained on newly installed CCTVs in its Mweiga yard and another three staff as system administrators in readiness for an ERP activation that the Corporation is yet to procure.

206. It is imperative to note that the Corporation had installed other yards and/or offices with CCTVs and there were no new developments in the manufacturers' products and this visit was unjustified. Additionally, no support evidence was provided for the payment on training made by the supplier to the manufacturer. Also, the staff did not provide proof of training and it remains unknown how such a training was beneficial to the Corporation. The training on ERP was being sponsored by the implementers of the system. Subsequently, neither the location of the training was disclosed nor the evidence of payment of the training fee made available. Further, back to office report by the

trainees and/or certificates on completion of training were not provided for audit review. The training of the software was supposed to be borne by the supplier as provided for in the contract and, therefore, the Corporation should not have incurred the expenditures.

207. In the circumstances, the completeness and accuracy of the daily subsistence allowances and air tickets payment to staff on training amounting to Kes. 3,910,156 could not be confirmed.

Management Response

208. REREC operates a decentralized stores management framework across multiple regions in Kenya to support the implementation of electrification and renewable energy projects at scale. These stores hold high-value assets, materials, and critical inventory including transformers, conductors, poles, tools, and specialized equipment, which are essential for timely project execution and service delivery.

209. To enhance asset security, operational accountability, and inventory integrity, the Corporation has progressively invested in closed-circuit television (CCTV) surveillance systems. The CCTV infrastructure is designed to support real-time monitoring, incident tracking, and audit trails within these storage facilities. This aligns with best practices in supply chain security and supports compliance with the Public Finance Management (PFM) Act and ICTA guidelines on ICT-enabled infrastructure controls. The procurement of this system was informed by the strategic need to safeguard public assets, deter pilferage, and ensure transparency in stores operations nationwide.

210. The contract agreement for supply and installation of CCTV (RFX 1000000612). The contractor made arrangements for technical training by the manufacturer HIK Vision for three staff who were involved in the project. The purposes of the training were to provide post implementation support for the installed system. As per the contract, payment for the training was catered for by the supplier but the Corporation was to cater travel and accommodation for its officers. As part of the project, the contractor arranged for a technical training session to be delivered by the CCTV system manufacturer, HIK Vision, targeting three staff members directly involved in the implementation of the project. The objective of the training was to equip the nominated officers with the necessary skills and technical knowledge to provide effective post-installation support for the installed system. While the training itself was fully

covered by the supplier, the Corporation (REREC) was responsible for covering travel and accommodation expenses, as stipulated in the invitation letter.

211. The justification for hosting the training in **Dubai** stems from the following key factors:

i) *Manufacturer-Led Training Requirement*:
The invitation specifically stated that the training would be conducted by the manufacturer in Dubai, where HIK Vision has a fully equipped regional training lab. A formal invitation for training was issued by HIK Vision through their authorized distributor.

ii) Lack of Equivalent Training Facilities in Kenya:
While there are distributors of HIK Vision products in Kenya, they do not offer hands-on, in-depth training as provided by the manufacturer. The comprehensive technical training required for REREC's operational needs is only available in HIK Vision's accredited training centers in Dubai and China.

iii) Strategic Relevance to REREC's Operations:
As REREC continues to expand its services across regions to support rural electrification, there is an increasing need to enhance security through technology. The training was necessary to build internal capacity, ensuring sustainability and continuity in supporting the installed systems.

iv) Selection of Participants:
The three nominated officers were selected from Security and I.C.T team due to their direct involvement in the project and their continued role in supporting and cascading training to other staff within the Corporation.

v) Cost Implications
The 10-day training was fully funded by the supplier, REREC only incurred costs related to travel and daily subsistence allowances, making it a cost-effective capacity-building initiative for the Corporation.

vi) Certificates
Upon completion of the training the participants were awarded certificates.

212. In conclusion, the decision to conduct the training in Dubai was based on practical, contractual, and operational considerations. It ensured the

Corporation received the highest quality of technical training directly from the manufacturer, which is not available locally. The officers who attended the ICT training in March 2023 were nominated as system administrators for the newly deployed **Veritas NetBackup system**, procured under **RFX 1000000812**. The system is specifically designed to back up the SAP S/4HANA HANA database, which is a new addition to the Corporation's enterprise infrastructure. Given the specialized architecture of HANA—being an in-memory, column-oriented database—it requires tailored backup and recovery configurations that differ from traditional databases.

213. The integration between HANA and Veritas NetBackup involves advanced plug-ins, scripting, and enterprise-grade backup orchestration. Since the Corporation previously lacked internal expertise on this integration, the training was necessary to ensure secure, compliant, and efficient management of the SAP environment. The officers received practical training on live appliances and scenarios that mirror REREC's configuration, which could not be replicated locally due to lack of such environments and certified trainers.

214. The training was conducted by a Veritas-certified training partner based in South Africa, as part of the original contract scope with no additional budgetary implications. The choice of training location was driven by the unavailability of equivalent certified training in Kenya at the time, and the need for hands-on exposure to the actual backup appliance environment. Upon completion, the officers were awarded official Veritas Certificates, and submitted a comprehensive back-office report covering system configuration, integration workflows, backup policies, and recovery protocols. This has significantly enhanced internal capacity, reduced reliance on third-party support, and ensured the Corporation is now capable of safeguarding its mission-critical SAP data in line with international standards and disaster recovery best practices.

215. The corporation recognizes all the costs of non-current assets as any amount incurred to acquire the asset and bring the asset into working condition. This includes costs directly attributable to bring the asset to its location and make it available for intended use. In this regard, the cost of to Kes. 3,910,156 for training was necessary to ensure that the CCTV were operational and backup system was functional thereby reported and classified under note 32 Property Plant and Equipment's under computers.

Committee Observation and Recommendation

216. The Committee observed from the submission by the Accounting Officer that the training was essential for staff to effectively handle and operate the CCTV system. The management covered the daily subsistence allowances, while the supplier met the training costs. Therefore, the matter stands resolved.

28.2 Unaccounted for Tablets

217. The statement of financial position reflects property, plant and equipment balance of Kes. 107,662,450,000. As disclosed in Note 32 to the financial statements, the balance includes additions to computers amounting to Kes. 99,002,000. The Corporation procured 30 Lenovo tablets at a unitary cost of Kes. 75,638 amounting to Kes. 2,269,140 out of which 13 tablets totaling Kes. 983,291 were not provided for verification, eleven (11) of them were issued to the previous Board of Directors in September 2022, eight months prior to end of their tenure. A physical verification on 1 December 2023 revealed that none of the directors returned the tablets when their term lapsed, two more devices could not be accounted for. Even though these devices could not be physically verified, the Corporation still included them as their assets

In the circumstances, the existence and accuracy of the tablets balance of Kes.983,291 could not be ascertained.

Management Response

218. The Corporation formally issued written requests to the former Board directors seeking the return of the tablets that had been issued during their tenure for official use. These communications outlined the expectation for asset return upon expiry of their term and formed Part of the Corporation's asset recovery procedures.

Committee Observation

219. The Committee observed that the tablets were issued to the Directors to facilitate them in carrying out their mandate.

220. The Committee observed that the former Board Directors failed to return the eleven tablets.

Committee Recommendation

221. The Committee recommends that within three (3) months of adoption of this report, the Accounting Officer should institute the process of passing journal

entries to write off the tablets under this query from the asset register and submit the journal vouchers to the OAG for verification.

222. The Committee further recommends that REREC should come up with a policy that provides for items of this nature to be treated as essentials for the effective performance of the Directors in implementation of their mandates. Thus, they should be exempted from the asset register of the agency.

28.3 Unconfirmed Additions of the Energy Centres

223. The statement of financial position reflects property, plant and equipment balance of Kes. 107,662,450,000. As disclosed in Note 32 to the financial statements, the balance includes additions of Kenya Shillings 261,675,000 being the value of land and buildings, furniture and fittings, computers and plant and equipment of seventeen energy centres in the country transferred during the year from the Ministry of Energy. However, it was not established how the Corporation determined the value of the energy centres' land and buildings and recognized the same in the financial statements, yet fourteen (14) of the energy centres do not have title deeds to the land they occupy and, therefore, the ownership could not be verified. In addition, no valuation of these assets was carried out to determine the actual values of the energy centres.

224. Further, Management did not provide any reason why furniture and fittings, computers and plant and equipment worth Kenya Shillings 2,174,800, Kenya Shillings 1,698,900 and Kenya Shillings 7,885,420 respectively totaling Kenya Shillings 11,759,120 being part of the additions from the energy centres were not depreciated during the year.
In the circumstances, the accuracy and completeness of the energy centres balance of Kenya Shillings 261,675,000 could not be confirmed.

Management Response

225. As correctly observed by the audit, the assets of Kes. 261,675,000 relates to assets taken over by the corporation from the MoE consequent to the enactment of the energy act, 2019. The corporation relied on the closing balances for audited financial statements for the MoE for FY 2021/2022. Thereafter, REREC engaged the services of Ministry of Lands and Public Works for valuation of the said assets. The exercise has since been concluded and the corrected valued reported in the subsequent financial years.

226. It is true that fourteen (14) energy centres did not have title deeds. The Corporation has been working towards acquisition of title documents. Thus far, the Corporation has acquired title for the Mitunguu Energy Centre in Meru.

Committee Observation

227. The Committee observed that the valuation of assets had been completed and depreciation duly effected.

228. The Committee also observed that the Management was in the process of acquiring ownership of thirteen energy centres and had so far obtained the title deed for one energy centre in Meru.

Committee Recommendation

229. Within six (6) months after the adoption of this report, the Accounting Officer should expedite the transfer of ownership of the energy centres and submit a status report on the land acquisition to the OAG for verification.

29.4 Unsupported Expenditure on Land Survey Services

230. As previously reported, the statement of financial position reflects capital work in progress balance of Kes. 8,749,934,000. As disclosed in Note 32 to the financial statements, the balance includes addition to capital work in progress of Kes. 7,929,365,000 out of which Kes. 1,600,000,000 was paid to three (3) firms for land survey services. The review of the balance revealed that it was for previous years for unspecified projects undertaken by the Corporation. During audit, no evidence was made available of budgeting for the services, their inclusion in the annual procurement plan and competitive procurement. This was contrary to Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015 which states that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan.

231. In addition, the services were not supported by local service orders, contract agreements and reports by the three (3) firms indicating topographical maps and way leaves. Further, Management response indicates that the survey payments to the three local firms are under investigation by the Director of Criminal Investigation, and this has not been disclosed as a footnote in the financial statements.

In the circumstances, the accuracy, completeness and validity of the land survey expenditure amounting to Kes. 1,600,000,000 could not be confirmed.

Management Response

232. The corporation budgets for survey services as part of its total projects' costs (Materials, Labour and transport and Survey and design costs) from the appropriated budget under the vote line of Electrification of public facilities and transformer maximization approved by the National Assembly. The three firms engaged for the survey services had been competitively prequalified under the corporation's framework agreement for survey and wayleaves services.

233. The amounts in question relates to irregular survey services which had been charged to already completed projects. However, the Board was presented with an Internal Audit report alleging the loss of funds during its 47th Special Board meeting held on 3rd August, 2022. The Board during the 47th meeting made a raft of recommendations among others that, thorough investigations be undertaken to ascertain the extent of loss incurred by the Corporation through fraudulent payments made to the three survey companies.

234. Consequently, on 8th August, 2022, the Corporation wrote to the Ministry of Energy requesting the Ministry to invite the Directorate of Criminal Investigations (DCI) or any other relevant body the Ministry may find suitable to undertake the investigations into the fraudulent payments. On 8th August, 2022, the Ministry of Energy wrote to the Directorate of Criminal Investigations to undertake investigations. Further, the Board made resolutions on administrative action to be taken against staff who had been implicated. Consequently, five staff were dismissed.

Mitigation measures by management

The management has since taken actions to mitigate future recurrence. They include;

i) Under the Survey Services;

235. The Corporation has since ceased the engagement of contracted surveyors and has instead established a fully-fledged Geospatial department responsible for conducting internal Geospatial services such as Route Surveys, Wayleave Acquisition, and Route Pegging, which were previously outsourced to Frame contractors. To ensure proper management, the Corporation has implemented internal controls, including issuing instructions for surveys (via Design and Survey Memo), preparing Back-to-Office reports

(BTOR) after fieldwork, submitting engineering survey drawings, delivering survey maps obtained from the director of surveys office, providing a detailed list of customers (beneficiaries), and delivering acquired wayleave consents and related documentation.

ii) Under ICT;

236. The Management acknowledges that weaknesses in SAP ECC 6.0—particularly the misuse of the UNTECO function was identified as the main weakness. In SAP Project Systems, TECO (Technically Complete) marks a project or WBS element as closed, preventing further transactions like payments or procurements. UNTECO reverses this status, reopening the project to allow new transactions. UNTECO is useful for correcting genuine errors but highly sensitive and risky if misused. This sensitive function was abused to reopen closed projects and process fictitious activities and payments.

237. To address this, the Management revoked the UNTECO rights from all users and vested them solely in the General Manager, Power Distribution and Regional coordination with written approval from CEO. All such actions are now logged and reviewed for compliance by the ICT manager. Further, all user rights in SAP were stripped and reconfigured based on a strict Role-Based Access Control (RBAC) model to eliminate privilege creep and enforce segregation of duties. To strengthen system integrity and prevent recurrence, the Management implemented a formal SAP rights form approval which ensures that any modification to user roles or system behaviors is subject to a structured request, risk analysis, and dual-level approval.

Follow-up and Disclosure Measures:

238. The matter remains under active investigation by the Directorate of Criminal Investigations (DCI). In the interim, the Corporation has continued to cooperate fully with the investigative authorities. To uphold transparency and accountability, the amount under investigation has been appropriately disclosed in all subsequent financial statements in accordance with applicable reporting standards. The Corporation remains committed to implementing any further recommendations that may arise upon the conclusion of the investigations.

Committee Observation

239. The Committee observed from the explanation provided by the Accounting Officer, that Rural Electrification and Renewable Energy Corporation (REREC) had dismissed five staff members who were involved in the irregular expenditure related to land surveying, and that investigations were still ongoing under the Directorate of Criminal Investigations (DCI).

240. The Committee observed that the management had instituted measures to prevent future loss of funds in survey services that included; establishment a fully-fledged Geospatial department and streamlining the approval process in the ICT department where only the General Manager has the UNTECO rights.

Committee Recommendation

241. The Committee directs the OAG to carry out an audit on the ICT (SAP-ERP) system to confirm whether controls are in place and the rights for all staff have been revoked and only the General Manager has the right to grant approvals.

242. Within three (3) months upon adoption of the report, The OAG should submit the report to National Assembly.

243. Within three (3) months upon adoption of this report, the Accounting Officer should submit a status report on the dismissed staff and the status of the ongoing investigations by the DCI to the OAG for verification.

29.5 Unsupported Capital Work in Progress

244. As previously reported, the statement of financial position reflects property, plant and equipment balance of Kes.107,662,450,000. As disclosed in Note 32 to the financial statements, the balance includes Kes.8,749,934,000 for capital work in progress. Audit review revealed some projects were initiated six (6) years ago and which remained incomplete. Included in the balance were additions amounting to Kes.7,929,365,000 which had no detailed breakdown of the projects name, location, date of inception, contract sums, amount paid to date and status of the projects. Further, Management did not provide detailed movement schedule indicating each project, opening balance, additions during the year, closing balance and the project status report as at 30 June, 2023.

In the circumstances, the accuracy and completeness of additions to capital work in progress balance of Kes.7,929,365,000 could not be confirmed.

Management Response

245. The Corporation acknowledge the audit observation regarding delays in the completion and commissioning of certain projects as included in the

capital work in progress balance of Kes.7,929,365,000. The property plant and equipment revised balance included the additions to capital work in progress balance whose breakdown of project details is hereby provided.

246. While efforts had been made to implement the projects within the stipulated timelines, several challenges were encountered during implementation, as outlined below, along with the measures taken to mitigate them:

i) Prolonged wayleave acquisition processes, requiring extended negotiations and stakeholder engagement
   Mitigation: The Corporation strengthened community and stakeholder engagement mechanisms and collaborated more closely with local administration and landowners to expedite wayleave approvals. The management has created new departments to deal with wayleaves matters, geospatial and advocacy, which ensure fast acquisition of wayleaves.

ii) Challenging site terrain conditions, which affected accessibility and required engineering adjustment
   Mitigation: Technical teams conducted detailed site assessments and adopted alternative design solutions to adapt to the terrain, including re-routing and use of specialized construction techniques where necessary.

iii) Late remittance of the Exchequer
   Mitigation: This is beyond the corporation's control.

The agency has since completed and commissioned the projects.

Committee Observation and Recommendation

247. The Committee observed during the examination that management had an asset register in place, and that works-in-progress (WIP) projects were properly recorded. The matter stands resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

30.0 Inadequately Insured Assets

248. The Corporation insured its ICT equipment in the year under review at a premium of Kes.709,785 for sum assured of Kes.235,535,000. However, the computers, accessories and other electronic equipment reported book value

as at 30 June, 2022 was Kes.120,533,000. Further, 103 number laptops were procured in June 2022 and an additional 256 number laptops procured in July, 2022. However, only 259 laptops were insured leaving 100 laptops uninsured.

249. Further, the Corporation insured Lot 3 Garissa Solar Plant through a local underwriter at a total premium amount of Kes.43,045,045. However, the land where Garissa solar plant lies is a disputed land and the Corporation does not possess a title deed for the land and, therefore, the Corporation's assets are not adequately safeguarded.

In the circumstances, the value for the funds spent on asset insurance could not be confirmed.

Management Response

250. The Corporation had procured insurance services from an insurance company though an insurance brokers for the period 01/07/2022 to 30/06/2023. The 100 laptops were not included in the tender because they had not yet been procured. However, in the FY 2023/2024 the 100 laptops were included in the Insurance terms of reference and are fully insured. The Corporation laptops are insured at cost so that in the event of loss, a Claim is made for the purchase of another laptop.

251. With regards to the Garissa Solar Power Plant, the delay in formalization of the land where the Solar Power Plant is situated is attributed to a court case, being ELC No. 15 of 2018, Raya Community Self Help Group vs. Ministry of Energy, REA & 5 Others. The suit was instituted against the defendants for compensation for the community land where the solar power plant is situated. The suit was dismissed on 26th April, 2023. Given that the land where the solar plant has been erected is community land, the Corporation embarked on formalization of the land in bid to acquire title to the same.

Current status

252. The Corporation has since acquired the Part Development Plans of the solar power plant. Further, survey has also been undertaken. Once the cadastral surveys have been finalized, the director of surveys will generate the cadastral files for solar plant and hand it over to the Corporation for onward transmission to the National Land Commission for valuation and processing of titles in REREC's favour. Despite title acquisition not having been finalized, the solar power plant forms part of the Corporation's assets and thus, an insurable interest.

Committee Observation and Recommendation

253. The Committee observed that the 100 laptops had been insured. Further the Committee observed that, although management did not possess ownership documents for the Garissa Solar Plant, the plant had been recorded in the asset register and duly insured hence the matter stands resolved.

31.0 Unapproved Staff Harmonization

254. The Corporation undertook a staff harmonization process that was only approved by the Board during its 52nd Full Board meeting held on 6 December, 2022 vide minute number 6. However, neither the National Treasury approval confirming availability of funds nor Salaries and Remuneration Commission approval was obtained. Further, Management did not disclose the criteria of promotion which include inter alia years of experience/service, academic qualifications, basis of merit regarding the appraisal documents.

In the circumstances, the staff harmonization was not approved.

Management Response

255. The Corporation developed new Human Resource Instruments in the year 2019 which were approved by the Board and State Corporations Advisory Committee (SCAC) in the 2019. Among other things, the HR Instruments changed the grading structure for most of the job groups especially for the entry levels. Implementation of the Instruments also required the recruitment of an initial 234 no. of staff to take up various vacancies created in the instruments. In spite of the approvals of the HR Instruments, the Corporation was unable to proceed with the implementation due to unavailability of budget to cover the additional staff costs associated with the recruitment of the 234 no. and the harmonization of staff below the entry point created by the approved Instruments.

256. Consequently, the Corporation sought approval from The National Treasury to expand the A.I.A ceiling in the 2021/2022 FY budget to accommodate the budget for implementation of the HR Instruments. Subsequently, The National Treasury in their letter dated 7th October, 2021, approved the expansion of the ceiling of A.I.A (5% REP Levy), which expansion was partly used to implement the HR Instruments, including recruitment of 234no and harmonization of staff below the entry level created by the new Instruments.

257. In addition to the approval from The National Treasury to expand the ceiling, the Corporation also conformed to the SRC guidelines on Model Salary Structure dated 7th July, 2017 issued to the Corporation wherein it was indicated that where the current obtaining rates were higher than those in the model, the

same were to be retained. The current approved salary structure was pursuant to the Corporation's re-categorized from PC7A to PC7A1 by the State Corporations Advisory Committee in the year 2016 and the subsequent review of the Human Resource Instruments including the Salary Structure so as to reflect the new category.

Committee Observation and Recommendation

258. The Committee observed that approvals had been obtained from the National Treasury, the State Corporations Advisory Committee (SCAC). Further, the Corporation had complied with the guidelines issued by the Salaries and Remuneration Commission (SRC) on the Model Salary Structure dated 7th July, 2017, hence the matter stands resolved.

32. 0 Irregular Extended Probation Period

259. The Corporation filled two hundred and thirty (230) vacant positions in March, 2022 with a six-month probation period ending in October, 2022. On expiry of the probation period, only three (3) staff were confirmed while three were dismissed and ten were not assessed. The remainder, two hundred and five (205), had their probation period extended by another six months effective 1 October, 2022, to allow the Board to review their appraisal reports for purposes of confirmation in employment. These decisions were made in the 121st Human Resource Committee meeting of the Board and ratified in the 52nd full board meeting on the 19 October, 2022 and on 6 December, 2022 respectively.

260. However, no concurrence was sought from the employees concerned as required in Section 42(2) of the Employment Act, 2007 that a probationary period shall not be more than six months, but it may be extended for a further period of not more than six months with the agreement of the employee. Though the management has demonstrated through its Human Resources Policy instruments and Board's minutes approval for the extension of the probation period, the consent of the concerned employees was not sought in line with Section 42(2) of the Employment Act, 2007.

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

Management Response

261. The management forwarded a request to the Human Resource Board Committee (BHRC) to consider confirmation of staff upon expiry of the probation period. The board resolved that probation period for staff in REREC 3 to 10 be extended by a period of another six months effective from 1st October

2022 to give the Board ample time to review their performance. Communication to the affected staff was however not made in line with Section 42(2) of the Employment Act, 2007. All staff were eventually confirmed. Going forward, the Corporation shall ensure strict compliance with the Act as part of the corrective action plan.

Committee Observation and Recommendation

262. The Committee observed that the Human Resource Board Committee (HRBC) extended the probation period for a further six months and eventually confirmed all the staff hence the matter stands resolved.

33.0 Irregular Acting Allowance

263. Review of payroll and human resources records revealed that fifteen (15) officers were holding various positions in acting capacity. These officers drew acting allowances for periods of up to six (6) months contrary to the provisions of Section 34(3) of the Public Service Commission Act, 2017 that states that an officer may be appointed in an acting capacity for a period of at least thirty (30) days but not exceeding a period of six (6) months. In addition, the Corporation has continued to place these officers in those positions on expiry of the acting periods without hiring or compensating them, some since May 2022 to date.

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

Management Response

264. The Accounting Officer stated that at the time of the audit, fifteen (15) staff had acted beyond the lawful period provided for in section 34 (3) of the Public Service Commission Act, 2017. However, this was as a result of the critical roles that the respective staff served. Additionally, it was not possible to obtain similar skill sets from other employees in place at the Corporation, and most of the employees within these departments were junior.

265. An example is the acting appointment of the General Manager, Power Distribution and Regional Coordination, Manager, Finance and Accounts, Manager, Construction, Corporation Secretary among others. These were very critical positions which the Corporation needed to fill in the interim to ensure continuity of operations and critical controls. Unfortunately, around this time, there were austerity measures in place that limited the recruitment of staff and required lengthy approvals before obtaining permission to recruit. The positions were eventually advertised and competitively filled and some of those who

acted were successful in the interviews and were accorded an opportunity to fill the positions substantively.

Committee Observation

266. The Committee observed that the vacant positions were advertised and competitively filled. However, management contravened the Public Service Commission Act, 2017 by extending the contracts beyond the stipulated period.

Committee Recommendation

267. The Committee recommends that, given the circumstances at the time and the critical role played by the officers, the matter stands resolved.

34.0 Over-Payment of NHIF Deductions

268. During the year under review, the Corporation incurred employee costs amounting to Kes.1,661,512,000. Included in this cost were NHIF deductions totaling Kes.11,795,700. However, the analysis of the NHIF deductions revealed that the Corporation did not adhere to the bands given in making these statutory deductions resulting to some over and under deductions resulting to some being below their bands while others were above. The Corporation overcharged its employees by Kes.501,200 contrary to section 16 (1) of the NHIF Act, 1998 (Rev. 2012).

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

Management Response

269. The Corporation acknowledges the Auditors observation in regards to NHIF deductions in line with the bands given in making the statutory deductions. A team from the Corporation and NHIF undertook reconciliation of the remittances and deductions over the past five (5) years to ascertain the anomalies. Upon conclusion, it was established that Kes. 911,230.00 was an underpayment to NHIF which was thereafter remitted regularizing the Corporation's account with the Fund.

Committee Observation and Recommendation

270. The Committee observed that the management of Rural Electrification and Renewable Energy Corporation (REREC) and the National Hospital Insurance Fund (NHIF) carried out a reconciliation of the deductions, established an agreed figure, and REREC subsequently remitted the outstanding amount, hence the matter stands resolved.

35.0 Abandoned Project

271. As previously reported, the contract for proposed building and civil works of go-down, ablution block, perimeter wall, yard and cabro pavement in Kisumu was awarded at a contract sum of Kes.123,000,000 on 11 May, 2017 for a duration of thirty (30) weeks. Inspection of the project in September, 2023 revealed that there were no ongoing activities and the contractor was not on site after partly constructing perimeter wall and one go-down. Construction had stopped at the lintel level and roofing works had not been carried out exposing the walls to damages and deteriorations.

272. Management terminated the contract through a letter dated 30 March, 2022 but have now retendered and awarded this contract. Further, the cost incurred so far had not been reflected under capital work in progress.

In the circumstances, value for money of Kes.123,000,000 could not be confirmed.

Management Response

273. The contract for the foregoing works was terminated after the contractor failed to complete the project in time. Following the termination, an assessment was done by the State Department of Works, who valued all work done at Kes.46,873,098.77. In the course of implementation of the project, the Corporation had raised Payment Certificates of Kes.49,974,067.52 from where it had paid Kes. 44,976,660.77 and retained Kes.4,997,406.75 from where the over certification of Kes. 3,100,968.75 was recovered.

274. Subsequently, the Corporation redesigned the project to accommodate its growing staffing needs, which called for a bigger office block, and a transformer testing facility, which were previously not covered in the earlier design. The project was subsequently competitively procured and awarded to a contractor, and the works are progressing well. It is envisaged that the works will be completed by December 2025.

Committee Observation

275. The Committee observed at the time of examination that the project was retendered and the works were ongoing and classified under the Work in Progress.

Committee Recommendation

276. Within three (3) months of adoption of this report, the Accounting Officer to submit a status report of the project to the OAG for verification.

36.0 Enterprise Resources Planning Purchase

277. The SAP audit report on the existing SAP ERP system by SAP East Africa presented to the 37th Special full board meeting held on 30 June, 2017 adopted and approved purchase of S4HANA (ERP) system. Consequently, proposed capital budgets in the financial years 2017/2018 and 2018/2019 of Kes.400,000,000 and Kes.200,000,000 respectively for investment in S4HANA technology were adopted and approved vide minute 383.2 of the full board meeting held on 28 September, 2017.

278. The Corporation awarded the tender and entered into several contracts with contractors totaling Kes.588,603,590 out of which Kes.388,633,362 had been paid by the Corporation. Subsequently to the above payments already incurred by the Corporation, additional annual license maintenance costs have been paid for three years 2020, 2021 and 2022 totaling Kes.131,539,659. Also, amounts of Kes.48,000,000 and Kes.4,000,000 was incurred in academy training for fifteen (15) key users and executive training respectively. The expenditure on executive training was not part of the contract and it was not explained why the Corporation paid additional amounts. As a result, Kes.567,173,021 has been incurred on the S4Hana ERP since 2019 to November, 2023, a project that seems stalled and anticipated benefits from its implementation are yet to be realized. The initial implementation schedule was planned to commence on 26 September, 2019 and be completed within twelve (12) months i.e. 27 September, 2020.

279. Further, the Corporation will continue to pay for annual licenses which have remained unutilized and will remain so if the project is not completed occasioning a possible loss of public funds.

In the circumstances, the value for the funds incurred amounting to Kes.567,173,021 could not be confirmed.

Management Response

280. The implementation of the S/4HANA ERP system was a strategic decision approved by the Board as a transformative investment aimed at streamlining operations, enhancing reporting capabilities, and improving overall organizational efficiency. Towards this end, the Board approved a budget of Kes. 600 million. The resource requirement of Kes. 600 million provided in the budget is detailed below:

Summary of itemized budget for S/4HANA

	Phase I	Remarks/explanation
Software & associated licenses	144,799,200	This budget was for software and associated licences
Hardware	175,525,000	This budget line was allocated for procurement of hardware in support the S/4HANA project
QA, OCM & Training	83,300,000	The budget line item was specific for quality assurance; Organization Change Management and Academy Training
Implementation	196,375,800	This budget line was for implementation contractor
Total	**600,000,000**	

281. Given that the implementation of SAP S/4HANA ERP is a large-scale enterprise transformation project; it would follow SAPs globally recognized Activate Methodology involving the following key components:

- Infrastructure Setup (Hardware & Hosting**):** Enterprise-grade servers and storage—such as IBM Power Systems—are mandatory to support the HANA in-memory database, with high reliability, scalability, and fault tolerance. This would be imperative that the hardware infrastructure is sized and set up ahead of commencement of implementation.

- Software & Licensing**:** SAP licensing is subscription-based and is required from the outset for system development, sandbox testing, and production environments. These licenses enable access to SAP's tools, support, system patches, and security updates. The licenses are required during system development, Go-Live and post implementation.

- Implementation Partner**:** A certified SAP implementer is essential to translate business requirements into technical configurations across SAP modules using standardized deployment templates.

- Quality Assurance Oversight: QA professionals ensured compliance with SAP standards, identify risks early, and aligned the technical solution to organizational needs.

- Project Management Office (PMO): Centralized governance is crucial to coordinate timelines, budgets, stakeholder inputs, and manage vendor performance across the work streams.

- Capacity Building and Change Management: Building user competency through structured training (including executive awareness) is critical for system sustainability and effective transition from legacy systems. Capacity building is important for the project team and users. It is best practice to equip the project team prior the implementation of the project.

282. To operationalize the above roadmap, the Corporation awarded contracts aligned with each key implementation pillar as summarized below:

Project Type	**scope**	**Amount Contracted**	**Amount Paid as at 30/06/2024**	**Balance**
Implementer Contract	Configuration and deployment of SAP modules using SAP Activate Methodology	1. Kes.157,112,520	Kes.31,422,504	Kes. 125,690,016
		2. Kes.59,855,764.03	Kes.17,956,729.21	Kes.41,899,034.82
Project Management	Governance, timelines tracking, stakeholder coordination	Kes.18,648,301.81	Kes. 3,729,660.37 Kes. 3,729,660.37	Kes.11,188,981.07
Quality assurance	Independent oversight, risk mitigation, and validation of business alignment	Kes. 18,148,800	Kes. 952,940 Kes. 3,629,760 Kes. 3,629,760	Kes.9,936,340

Project Type	scope	Amount Contracted	Amount Paid as at 30/06/2024	Balance
	with SAP standards			
Licenses i. SAP Licenses ii. Arc GIS Licenses	Licensing for development, testing, and production environments; includes SAP support services	1. Eur 335,982.92 2. Eur 228,833 3. Kes. 10,161,600	Kes.119,043,425.87 Kes. 38,446,015 Kes. 10,161,600 Kes. 2,610,000 Kes. 2,610,000	 0
Hardware i. Servers & storage +AMC of 3 years	Delivery, installation, and commissioning of servers and storage with 3-year AMC	Kes. 150,128,240	150,000,000	0
Quality Assurance, Organization & Change Management; Academy Training	Quality Assurance, Organization & Change Management; Academy Training	Kes. 83,300,000	52,000,000	
		Kes. 588,603,590	**Kes.421,965,326.00**	

The Corporation requested the services of ICT Authority to assess the level of completion of the project. The ICT Authority (ICTA) conducted an independent assessment of the SAP S/4HANA ERP implementation and rated the overall project

status at **60%** completion, primarily reflecting foundational deployments and partially activated modules.

Achievements so far;

In response, REREC Management strategically leveraged *internal capacity* to continue the rollout of modules that were technically ready for go-live, ensuring continuity in system adoption without incurring additional implementation costs.

283. The following modules are already in live or hybrid operation:

- SAP SuccessFactors – managing recruitment, leave, employee performance, and learning digitally.
- Performance & Contracting Module – real-time tracking of procurement KPIs and contract deliverables.
- ArcGIS Integration – supports geospatial monitoring of energy infrastructure and project locations.

284. The table below summarizes some of the deliverable:

Component	**Value (Kes./EUR)**	**Scope Description**	**Status**
IBM Power Hardware	Kes.150,128,240	Delivery, installation, and commissioning of servers and storage with 3-year AMC	Delivered, installed, and actively in use
SAP S/4HANA Licenses	EUR 335,982.92 (annually)	Licensing for development, testing, and production environments; includes SAP support services	Paid for 2020–2022 – Enabled system access
Implementation Contract	Kes.157,112,520 + Kes.59,855,764.03	Configuration and deployment of	Implementation at 60% as per the assessment

Component	Value (Kes./EUR)	Scope Description	Status
		27 SAP modules using SAP Activate Methodology	by ICTA
Quality Assurance	Kes.18,148,800	Independent oversight, risk mitigation, and validation of business alignment with SAP standards	Implementation at 60% as per the assessment by ICTA
Project Management Office	Kes.18,648,301.81	Governance, timelines tracking, stakeholder coordination	Implementation at 60% as per the assessment by ICTA
ArcGIS Licenses	EUR 228,833 + Kes.10,161,600	Integration with SAP for geospatial planning and project monitoring	Project complete and in use in Geospatial activities
Key User Academy Training	Kes.48,000,000	Intensive training for 15 key users. Procured via SAP Order Form, which is a formal contractual tool	Completed – All users certified
Executive Training	Kes.4,000,000	Executive sensitization and strategic alignment. Also procured via	Completed – Enhanced governance oversight

Component	Value (Kes./EUR)	Scope Description	Status
		SAP Order Form	

Justification for Software License

285. The amount of Kes.131,539,659 spent on software licenses from 2020–2022 represents valid, necessary payments to enable:

- Access to development and QA systems.
- System patching and SAP support services.
- Environment readiness for module configuration, testing, and go-live.

286. These licenses enable access to SAP's tools, support, system patches, and security updates. The licenses are required during system development, Go-Live and post implementation. As per SAP's standard policy, licenses are prepaid annually regardless of usage pace. This cost model is standard across all SAP clients worldwide. In addition, the current ERP system (FICO, MM, PS) is utilizing the same license which are managing all our operations.

Training – Kes. 52 million

287. It is true as per the audit 48 million and 4 million was not part of the contract. However, the cost of training was provided for in the itemized budget of Kes. 600 million at Kes. 83 million; Therefore, the same was a role for the corporation that capacity is built and has directly contributed to current module adoption and system configuration activities. Therefore, this scope was not part of the contract entered into between the implementation and the corporation. The same was to be implemented fully by the Corporation using the budgetary allocation under Quality Assurance, Organization & Change Management and Academy Training of Kes. 83 million.

288. To complete the remaining phases, the Corporation has developed a *phased implementation strategy* that outlines prioritized module deployment, change management, and end-user enablement. This strategy is pending Board approval to proceed with external procurement of the remaining implementation services. Subject to Board approval, the Corporation intends *to advertise, award, and complete the remaining implementation* activities within the current financial year.

Committee Observation

289. The Committee observed, from the submission of the Accounting Officer, that the Enterprise Resource Planning (ERP) implementation was on course and that the remaining milestones were scheduled to be completed in the FY 2025/2026.

Committee Recommendation

290. Within three months of the adoption of this Report, the Accounting Officer should submit a status report on the progress of implementation of the Enterprise Resource Planning (ERP) system to the OAG for verification.

37.0 Irregular Utilization of Petroleum Development Levy Funds

291. Review of financial records revealed that the Corporation received an amount of Kes.1,669,000,000 from the Petroleum Development Fund which were utilized on implementation of rural electrification projects. This was contrary to Section 4(4) of the Petroleum Development Fund Act, 2012 which states that there shall be paid out of the Petroleum Development Funds such monies as are necessary for the development of common facilities for distribution or testing of oil products and matters relating to the development of the industry. Further, there was no evidence of budgeting for the expenditure and its inclusion in the annual procurement plan. This contravened section 45(3)(a) of the public procurement and asset disposal act,2025, which states that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through procurement plan.

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

Management Response

292. It is true that the corporation received an amount of Kes. 1,669,000,000 from the Petroleum Development Fund which were utilized on implementation of rural electrification projects. Section 53. (1)(b) Identifies funds of the Corporation to include such monies as may, from time to time, be appropriated by Parliament for that purpose. In the FY 2022/23 Parliament appropriated Kes. 1,1669,000,000 being Petroleum Development Levy through the printed estimates. The same was done and the funds were utilized for on implementation of rural electrification projects.

Committee Observation and Recommendation

293. The Committee observed that REREC utilized the money allocated to the agency in accordance with the budget. The agency was not privy to the

source of the funds appropriated to the agency. Therefore, the matter stands resolved.

294. The Committee further recommends that National Treasury should ensure that monies ringfenced for a specific purpose in accordance with stipulated laws should be utilized for the intended purpose.

38.0 Unapproved Investment of Surplus Funds

295. Review of financial records revealed that the Corporation had on call deposit balance of Kes.2,325,243,000 invested in three (3) bank accounts which increased from three (3) banks with a balance of Kes.1,730,427,000 in the 2021/2022 financial year. However, the investments were not approved by the Cabinet Secretary in charge of The National Treasury as required by circular No.22/2019 of 20 December, 2019. Further, Management did not seek approval for opening and operating the bank accounts from The National Treasury as required by Section 28 of the Public Finance Management Act, 2012.

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

Management Response

296. As observed by the Audit, an amount of Kes.2,325,243,000 was held in call deposits accounts and not fixed deposit investments, across three (3) commercial banks. These funds were received during the financial year to support project implementation and other key activities, including electrification of public facilities, and were not idle or surplus funds. Section 23 of the National Treasury's circular No. 22/2019 states that in accordance with section 28(1) of the PFMA, no state corporation should invest surplus funds in any financial institution/bank without prior approval of the National Treasury and planning, other where the investments are in Treasury bills/bonds.

297. The corporation's interpretation of the above section of the National Treasury's Circular is that there were no surplus funds, that would occasion seeking for Cabinet Secretary's Approval, the monies in the Bank accounts were deposits made in anticipation of settling payments arising out of procurement of Project materials and other key services. In order for the cash deposit not to lie idle, management placed the monies on call account in competitively negotiated rates with the banks, this means that the monies were not placed in a fixed deposit account, but call accounts which was budgeted for under interest income and approved by the Board.

298. Section 53(1) of the Energy Act, 2019 identifies funds of the corporation as shall consist of: -

a) Monies from Rural Electrification Programme fund as per Section 143.
b) Such monies as may be appropriated by Parliament from time to time.
c) Monies allocated from the consolidated energy fund for promotion and development of renewable energy initiatives.
d) Interest from bank deposits.
e) Revenues from other sources including loans, grants, gifts or donations approved by the Cabinet Secretary.

It is therefore on the basis of Section 53(1) (d) that the corporation negotiated and placed the funds on call account.

299. The funds were temporarily placed on call to preserve their value during the period between receipt and disbursement, pending completion of procurement processes and contractor mobilization. This approach ensured continued operational readiness while safeguarding the financial interests of the Corporation. Interest income generated from the call deposits was recognized and disclosed in the Corporation's financial statements, in line with Section 44(3) (a) of the Energy Act, 2019, which designates such income as an approved source of revenue for the Corporation. All bank accounts are operated in accordance with the Public Finance Management Act, 2012, and approvals from the National Treasury have been obtained in compliance with Section 28 of the Act.

Committee Observation

300. The Committee observed from the explanation by the Accounting Officer, that the funds were not surplus and were therefore not invested in fixed deposit accounts. Instead, they were placed in an interest-earning call accounts to preserve their value pending disbursement to the intended projects. The interest earned was duly recognized in the Corporation's financial statements.

Committee Recommendation

301. The Committee recommends that since the management adhered to the Public Finance Management Act, Cap 412A and obtained the required approval from the National Treasury, the matter stands resolved.

39.0 Irregular Acquisition of Community Land

302. The Corporation constructed isolated diesel stations and solar mini-grids power stations in Wajir, Mandera, Garissa and Turkana Counties on community land without following proper procedure as governed by the Land Registration Act, 2012, Land Act, 2012 and the Community Land Act, 2016. It was observed that irregular privatization/Government use of community land is an infringement of the right of the communities to property and socio-economic rights. Community lands are property held by the County Governments for their people as ancestral, cultural and grazing land for themselves and in trust for their future generations.

303. However, the Corporation has failed or neglected to regularize the acquisition of titles thereby placing public and donor funds at risk of wastage should any problems arise.

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

Management Response

304. The Corporation has been actively working to formalize the land titles for its diesel and solar mini-grid power stations in Wajir, Mandera, Garissa, and Turkana Counties. These stations are established on community land. REREC has not only initiated the regularization process but has also successfully engaged both the individual communities and their respective County Governments. The communities have assented to the initial donation of land for the genset developments. The County Governments have also shown their support by preparing and approving Part Development Plans (PDPs) for the sites. This collaborative approach is vital for ensuring the rights of the communities are respected and the acquisition process is consensual.

305. The Corporation communicated with the Director of Surveys office to conduct cadastral surveys on all developed sites. Thus far, the fieldwork for sites in Garissa County have already been completed. The fieldwork for the remaining counties is scheduled to be carried out within the first quarter of the 2025-26 Financial Year. Once the cadastral surveys have been finalized, the director of surveys will generate the cadastral files for all the sites and hand them over to the Corporation for onward transmission to the National Land Commission for valuation and processing of titles in REREC's favour.

Committee Observation and Recommendation

306. The Committee observed that management was working closely with local community leaders, the National Government Administrative Officers and the

respective county governments when implementing projects on community land.

307. The Committee further observed that approval by the community was sufficient to allow implementation of the projects hence the matter stands resolved.

40.0 Wayleaves

40.1 Wayleaves Creation and Registration

308. REREC's core business is the expansion of Kenya's Power grid in the rural areas to provide electricity to areas that have never had it. To achieve this, REREC must acquire wayleaves and register. However, review of the wayleaves presented revealed that REREC got wayleaves consents by making occupants sign but had failed to complete the process by having the same noted by the Directorate of Surveys and the land registries.

309. During field visit carried out in September 2023 it was noted that the corporation did acquire wayleaves from land owners in affected area. However, it did not conform to the requirements and procedures in the land act,2012 and the energy act 2019.The wayleaves were also not registered as required as wayleaves in Kenya operate as public rights of way and easements.

310. Further, a proper way leaves/consent must contain the names of the contracting parties, the description of the land, the consideration (if any), the obligation of both the wayleave owner and the land owner, demarcation and measurement of the powerline, the site plan and the consent. Both parties must sign the document. The document being used by REREC fails on the above criteria as it does not capture all the information required.

Management Response

311. REREC's design standards demand that powerline infrastructure is designed along public right of ways including public access and road reserves. The Corporation strives to align the development of its powerline infrastructure network within existing public access corridors and road reserves. In the connectivity of the household, private developments, and public facilities, the Corporation seeks for grant of wayleave consent to allow entry onto the land and carry out all that pertains to the successful installation of the powerline infrastructure.

312. ***Acquisition of Wayleave Consent***: As observed in the audit report, it was noted that REREC must acquire wayleave. Section 138 (1) of Land Act, 2012, prescribes that, subject to any other written law applicable to the use of land; read together with Section 170 of the Energy Act, 2019, provides the avenue of grant of wayleaves and use of land for energy resources and infrastructure. Section 171 (1) of the Energy Act, 2019, provides that any entry upon land for the purposes of laying, connecting supply lines and carrying out surveys to aid the installation of electricity infrastructure shall be granted through consent. Section 171 (2) provides that the Cabinet Secretary shall prescribe the forms and procedures for seeking and granting consent. In addition, Section 173 prescribes, once a request for consent is received, the landowner may provide written approval for the development of the energy infrastructure. This written consent becomes legally binding on all parties when an agreement is reached.

313. Section 178 (1) of the Energy Act, 2019, prescribes that for the purpose of the production, conveyance and supply of energy, the licensee *(in this case REREC)* may erect, fix, install or lay any electric supply lines or other infrastructure through, under, over or across any public street, road, railway, canal, river, government property including forest, parks, reserves, in a manner and conditions provided in the Act. With the foregoing, the Corporation has developed a working relationship with other government bodies including the Roads Authorities, Kenya Forest Services, Kenya Wildlife Services, Kenya Railways, County Governments, National Land Commission among other to support in the grant of wayleaves consent whenever a distribution line traverses lands owned accordingly. REREC affirms that it is guided by the provisions of the Energy Act, 2019, The Land Act, 2012, and has aligned accordingly.

314. ***Registration of Wayleaves for Distribution lines***: It was also observed in the audit report that REREC must register wayleaves. Section 173 (2) provides that no consent expressed in writing in accordance with Section 173 (1) shall be void by reason only of non-compliance with any statutory requirements as to registration. This provides that if a landowner gives consent in writing (through a prescribed wayleaves consent form or any other written consent on any approved form) for wayleaves, that consent remains legally valid, even if it wasn't registered with the land registry. Further to the above, in the event the installation is removed, the full use of the land for the section that had the installation reverts to the owners or their beneficiaries and the land restored accordingly.

315. Consequently, as observed in the audit report, certain legal documents like easements or land use agreements must be registered with the registrar of lands to be fully enforceable, and for this REREC underscores the importance of easement registration for its installed high voltage 66 kV lines. The registration of 66kV trace (15-meter easement trace) is carried out following the provisions in the Land Act, 2012, Community Land Act, 2016, Land Registration Act, 2012, and Energy Act, 2019.

316. ***The Wayleaves Consent form:*** As observed in the Audit report, the contents of a wayleave consent form should include the following: the project name, the constituency and county, name of proprietor, the title number, the reason for the consent, the limit of land usage by the proprietor, proprietor and witness details, the site plan, drawing number, project reference, and powerline rating. The above aligns with the KPLC Distribution Standards & Guidelines Manual – Issue No. 1 - June 2021. In concurrence, the Corporation has taken steps and updated its wayleave consent form accordingly.

Committee Observation and Recommendation

317. The Committee observed that REREC does not acquire ownership of the land on which transmission lines are constructed; this also applies to KPLC infrastructure. Thus, the wayleaves are provided free of charge upon consent by the public after obtaining consent from the land owners hence the matter stands resolved.

40.2 Wayleaves Compensation

318. The creation of wayleaves is a form of land acquisition as the occupant of the land extinguishes as thread of his/her rights as to the portion of land that the entity will require. During field inspections, it was noted that REREC does not compensate the landowners who give consent for the use of their land. Field visit to Kisumu and Kakamega noted that the people had not been properly sensitized on their rights to compensation on the land and loss of their rights on areas where the Power lines will pass. Further, the Corporation did not keep or have a valuation report for the damage it had done for the areas it had placed power lines. The absence of valuation reports may open the door for dubious and fictitious claims for compensation, which will expose the Corporation to losses.

Management Response

319. As observed by the audit team, the creation of wayleaves over the land of another grant's rights of access for the intended purpose. Section 143 (2-a) of

the Land Act 2012 and Section 171 (1) of the Energy Act, 2019, prescribes the avenue of accessing land for purposes of carrying out the Corporations works. Further, section 172 of the Energy Act 2019 prescribes that the relevant person or government agency responsible for the management of the subject land may enter upon land provided that if there is any damage resulting from such an entry the applicant shall pay in full compensation as is payable under the relevant written law. Consequently, Section 148 (1) of the Land Act 2012 prescribes that, in addition to any prior declared compensation, damage suffered in respect to trees, crops, and buildings shall be compensated. The Corporation affirms that it has been compensating for damages to crops, cut trees, and temporary structures affected during the construction of the powerlines.

320. The KPLC Distribution Standards & Guidelines Manual issued in June 2021 provides the minimum wayleave's trace clearance from building structures, trees and vegetation of the power systems. The wayleaves trace for the low voltage lines is approx. 2 meters for single & three phase distribution lines. For medium voltage lines, the recommended clearance for 11kV and 33kV from trees and buildings is 2.7m and 2.9m respectively (from center of alignment). The 66kV wayleave trace is 15 meters and this is registered as an easement upon consultation, fair compensation, and approval of the stakeholders. With the foregoing, REREC does not compensate for the wayleave trace for Low Voltage, 11kV and 33kV distribution network. However, the Corporation compensates wayleaves for the 66kV sub-transmission lines.

321. ***Estimation if REREC was to Compensate Wayleaves Trace for the Low Voltage, 11kV, and 33kV Power Distribution Network:*** Averagely, REREC's cost of implementing a powerline project is Kes. 11.0 million. The land compensation on the power distribution network for such a project would be conservatively 20% of the cost of the project, giving a figure of Kes. 2.20 million. In a financial year, REREC on average implements close to 1500 projects, hence Kes. 3.30 billion would be spent on land compensation. Therefore, if it was to compensate for the wayleave trace, the same would not be tenable. Hence, REREC has been partnering with local communities to support the implementation of projects through the grant of Wayleaves.

322. ***Sensitization During Project Implementation*:** REREC acknowledges that in the prior years, there was not enough sensitization of the landowners and the general stakeholder engagements at project initiation, planning stages, and implementation. Consequently, REREC has established new departments

including, advocacy department whose mandate includes sensitization on powerline projects and associated processes including the need for grant of wayleave, and Geospatial department whose mandate includes carrying out route surveys, acquisition of wayleaves, and route pegging. In addition, the corporation has decentralized its staff to the regional offices for ease of implementation of the projects.

323. ***Valuation Report for Damages caused during Construction***: As observed in the Audit report, REREC has also taken note of the auditor's concern to maintain a valuation report for the damage it has done along the wayleave's trace during construction of the Power Distribution Network. This will require a policy shift in the Corporation, and as such, REREC proposes to study the situation and work out ways to address this through industry's best practices.

Committee Observation and Recommendation

324. The Committee observed that REREC does not acquire ownership of the land on which transmission lines are constructed; this also applies to KPLC infrastructure. Thus, the wayleaves are provided free of charge by the public after obtaining consent from the land owners.

325. The Committee noted that REREC is currently increasing sensitization of landowners and enhancing stakeholder engagement at the project initiation, planning, and implementation stages, with emphasis on the need to grant wayleaves. Therefore, the matter stands resolved.

40.3 Wayleaves Consent on Succession Lands

326. During field visit to Kakamega in September, 2023, it was observed in some projects where owners were deceased and their lands occupied by close and/or extended, these current occupants purported to give consent for wayleaves as owners of the land without providing any succession documents. The Corporation has been conducting surveys all over the country since inception for its mandate. However, it was observed that the surveyors have not been updating the Directorate of surveys in Nairobi or the regional offices of acquisition of wayleaves for the same to be noted and recorded. The above raises doubt as to the value for money that the Kenyan people may enjoy when the records maps kept by the Directorate of survey are not accurate and complete. For the foregoing reason the payment of the surveyors who did not conform to the law raises questions on the sum spent by the entity to carry out surveys made totaling Kes.1,793,378,669 could not be confirmed.

327. Additionally, it casts doubts as to where homogeneous rights, responsibilities, and restrictions exist. Land parcel boundaries and restrictions are required to be unambiguously defined both on the ground and on the map. The legality and nature of the parcel boundaries and restrictions depend on whether they have been registered and whether they are accurately defined. Further, it was noted that the Corporation had given acquired wayleaves on land where adjudication had not been done without causing to be prepared a demarcation map of the adjudication area or an adjudication register, showing every parcel of land identified for the wayleave by a distinguishing number.

Management Response

328. As observed in the audit, section 45 of the Law of Succession Act Cap 160, prescribes that there should be no intermeddling with the property of the deceased person, except as may be expressly authorized by the Act, or by any other written law, or by a grant of representation. Correspondingly, it was observed by the audit team that in the sampled projects, individuals purporting to be the rightful owners signed consent documents but did not provide the succession documents to show appointment as administrators.

329. REREC notes that the acquisition of wayleaves on property of the deceased should be granted by the appointed administrators of the estate. The administrator is expected to provide a copy of title of the land, copy of identification documents of the administrator(s), next of kin(s) including the current land occupant(s), copy of death certificate, letters of grant of 7administration or confirmation notice of the beneficiaries, a search from the lands office, and the mutual acceptance and agreement of the parties involved through a signed consent form.

330. REREC has acknowledged the issue and has since put in place internal control measures. The measures include the establishment of the Geospatial department, Lands Section, and Advocacy department whose mandate is to acquire wayleaves internally, analyze lands documents, and sensitize the public on the need to grant wayleaves respectively. However, it is important to note, the issue of succession documentation and process in Kenya is a huge challenge. Many households live in ancestral lands that have not undergone succession and as such lack the required documents to support land ownership.

331. ***Updating of Survey Maps after Acquisition of Wayleaves***: Additionally, it was observed that the Corporation has not been updating the Director of Surveys in Nairobi or the regional offices of acquisition of Wayleaves for noting and recording purposes. As earlier indicated, REREC does not compensate for the wayleave trace for Low Voltage, 11kV and 33kV since it is untenable, but compensates for the Wayleave trace for its 66kV sub-transmission lines. With the foregoing and as guided by the industry practice in Kenya, it unlawful to create an encumbrance on another's title without acquisition and compensation for the land. However, for 66kV sub-transmission lines, the Corporation works closely with the landowner, the director of surveys office, the National Land Commission, and the County Governments to support in the acquisition, registration, and noting of the wayleaves in the maps accordingly.

332. Further, REREC has developed a working relationship with the Directorate of Land Adjudication and Settlements office in support towards provision of adjudication map records for areas where official survey maps have not been produced. Consequently, REREC has initiated a collaboration with the Directorate of Lands to support in provision of official survey maps and support in carrying out cadastral surveys for land to be acquired by the Corporation.

Committee Observation and Recommendation

333. The Committee observed that REREC has since put in place internal control measures including establishment of a Geospatial Department, a Lands Section, and an Advocacy Department. Their respective mandates are to acquire wayleaves internally, analyze land documents, and sensitize the public on the need to grant wayleaves.

334. Further, the Committee observed that management was working closely with local community leaders, the National Government Administrative Officers, and the respective County Governments when implementing projects on community land hence the matter stands resolved.

40.4 Wayleaves Consent on Community Land

335. It was noted that REREC conducted surveys on lands that had not been adjudicated upon — a preserve of the Director of Surveys. Similarly, no maps were registered as a true record of the Survey with any Government registry and thus the records could not be verified for accuracy and completeness. Further, REREC as an entity has created wayleaves on unadjudicated lands and has gone further to even collect the names of the people settled on those lands without first adjudication creating general boundaries for public,

communal and private rights to those lands. This has been done in the sampled Counties of Turkana (Turkana West Constituency) Lopacho Village and Kilifi County (Malindi) Ganda, Ward, Takaye Village.

336. The custodian of community land should be the one to sign as the trustee of the people who occupy said lands. It must be noted that the creation of wayleaves is a form of acquisition as one acquires rights over another person's lands where authority is granted by the owner or trustee of the land. The occupiers of unregistered community land have no rights that they can confer to REREC for the use of land occupied.

In the foregoing circumstances, Management was in breach of the law.

Management Response

337. The Audit team observed that most community lands in the Arid and Semi-Arid Counties remain unadjudicated, with only a few areas having undergone adjudication. The responsibility for adjudicating these lands lies with the Directorate of Land Adjudication and Settlements under the State Department of Lands and Physical Planning. During the adjudication process, updated survey maps are produced by the Director of Surveys office. REREC relies on these survey maps as provided by the office of the Director of Survey.

338. Further, the Audit report indicated that REREC created Wayleaves on unadjudicated land. The Corporation acknowledges this but clarifies that the process is guided by the provisions in the Community Land Act 2016. According to Section 6 (1) of the Act, the County Government holds unregistered community land in trust for the respective unregistered communities. Sections 6(2) and 29 of the Act allow government entities or public bodies to access community land for public interest projects, such as electricity infrastructure, provided there is proper consultation and fair compensation. All decisions regarding land allocation, including the granting of Wayleaves on registered community land, must be approved by the registered community leadership. Consequently, the County Government, holding unregistered community land in trust, is responsible for making decisions on such lands.

339. Currently, the Corporation engages with the communities through organized barazas where the intention to acquire wayleaves is communicated. In registered community land, the registered community assumes the administrative and management functions, including the granting of wayleaves. However, for unregistered community land, the County Government, acting as the trustee of the unregistered communities, is

engaged to provide wayleaves for the powerline. In the highlighted case in Turkana County (Turkana West Constituency) Lopacho Village, we affirm that the wayleave was granted by the Turkana County Government. However, in the case of Kilifi County (Malindi) Ganda Ward, Takaye Village, it is true that the process was not fully adhered to. Therefore, REREC has taken note and has initiated the process of regularization.

Committee Observation and Recommendation

340. The Committee observed that the management was working closely with local community leaders, the National Government Administrative Officers, and the respective County Governments when implementing projects on community land.

341. The Committee further observed that approval from the community was sufficient to allow implementation of the projects hence the matter stands resolved.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

41.0 Excess Board Committees Membership

342. The Corporation's board established four committees all of which had an excess member as the membership exceeded a third of the entire board membership. Further, one board member was in three committee's contrary to the ceiling of the allowable maximum of two. No written approval of the Cabinet Secretary on this exception was provided.

In the circumstances, the Corporation incurred additional expenses of Kes.520,000 for the extra board member(s) in the committees while attending the committee meetings and public funds may not have been prudently utilized.

Management Response

343. The Corporation acknowledges the observation regarding the composition of Board Committees. It is correct that four (4) committees previously established by the Board each comprised five (5) members. However, the constitution of these Board Committees took place on 15th February 2019, which was prior to the issuance of the Head of Public Service Circular Ref. OP/CAB.9/1A dated 11th March, 2020 on the management of State Corporations. Upon receipt of the Circular, the Corporation took steps to align with the prescribed governance guidelines. The Board Committees were

subsequently reconstituted to comply with Paragraph B (4) of the Circular, which limits committee membership to not more than one-third of the full Board.

Committee Observation and Recommendation

344. The Committee observed that the Board Committees were reconstituted to comply with the Head of Public Service Circular Ref. OP/CAB.9/1A dated 11th March, 2020 on the management of State Corporations hence the matter stands resolved.

42.0 Ineffective Project Management

345. During the year under review, it was established that projects currently under implementation by the Corporation are behind schedule as they take more than the prescribed six (6) months for construction that is the standard period for labour and transport contracts in the entity. This exposes the Corporation to litigations as the contractors are operating without renewed/valid contracts. Perusal of documents for sampled projects in five counties contracted at a sum of Kes.356,428,533 revealed that they were behind completion schedule, yet some were conceived and procured in 2015. This raises questions of inequality since some projects in other areas are completed in time.

Management Response

346. The Corporation acknowledged the audit observation regarding delays in the completion and commissioning of certain projects. While efforts had been made to implement the projects within the stipulated timelines, several challenges were encountered during implementation, as outlined below, along with the measures taken to mitigate them:

i) Prolonged wayleave acquisition processes, requiring extended negotiations and stakeholder engagement
Mitigation: The Corporation strengthened community and stakeholder engagement mechanisms and collaborated more closely with local administration and landowners to expedite wayleave approvals. The management has created new departments to deal with wayleave matters, geospatial and advocacy, which ensure fast acquisition of wayleaves.

ii) Challenging site terrain conditions, which affected accessibility and required engineering adjustment

Mitigation: Technical teams conducted detailed site assessments and adopted alternative design solutions to adapt to the terrain, including re-routing and the use of specialized construction techniques where necessary.

iii) Late remittance of the Exchequer
Mitigation: This is beyond the corporation's control.

They have since completed and commissioned the projects.

Committee Observation and Recommendation

347. The Committee observed that the management had faced challenges during the implementation of the projects. However, the projects have since been commissioned and a performance management system has been adopted and is now in place to guide project implementation hence the matter stands resolved.

3.2 KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED (KETRACO)

EXAMINATION OF THE AUDITED ACCOUNTS OF KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED (KETRACO) FOR THE FY 2018/2019 TO FY 2021/2022

Overview of the State Corporation

348. The Kenya Electricity Transmission Company Ltd (KETRACO) is a state corporation under the Ministry of Energy and Petroleum, mandated to plan, design, construct, own, operate, and maintain high voltage (132KV and above) electricity transmission grid and regional power interconnectors, in line with Kenya Vision 2030. This is aimed at increasing electricity access by expanding the transmission network, strengthening the national grid, protecting electricity consumers from high retail tariffs, evacuating general power, and interconnecting with neighbouring countries.

FINANCIAL YEAR 2018/2019

1.0. Contingent Liabilities

349. I draw attention to note 28 (b) to the financial statements which discloses that the Company's estimated contingent liabilities consist of ongoing court cases relating to acquisition of wayleaves and contractors' claims beyond the original contract period, amounting to Kes.12,967,306,000. According to Management, the status of these exposures is evaluated on a regular basis to assess the probability of incurring related liabilities. However, in the event that these contingent liabilities crystalize, the Company may be exposed to unforeseen project cost overruns, resulting to inability to meet its obligations when they fall due. This may affect service delivery capacity of the Company.

Management Response

350. The Accounting Officer stated that the status of these exposures is evaluated on a regular basis to assess the probability of incurring related liabilities. The significant contribution is the Arbitral award case relating to the termination of contractor of Lessos-Tororo transmission line.

Committee Observations

351. The Committee observed at the time of examination that—

i) The Supreme Court case challenging the arbitral award in the arbitration case between KETRACO and *Instalaciones Inabensa S* relating to the Lessos-

Tororo transmission line was concluded and the arbitral award of 37 million Euros was upheld against KETRACO;

ii) at the time of termination of the contract, the works were at 51% and the cause of termination of the contract was due to abandoning of the site by the contractor. The Committee noted that the challenge of wayleave acquisition by KETRACO had led to the abandoning of site by the contractor;

iii) the management of KETRACO was negotiating to settle the arbitral award and was liaising with the National Treasury and the Ministry of Energy and Petroleum, to first settle the principal award amounting to 31 million Euros. It was also discussing the waiving of the interest on the arbitral award; and

iv) the Committee observed that the project had delayed and the value for money and benefits of the transmission line had not been realized.

Committee Recommendation

352. The Committee recommends that KETRACO should henceforth ensure that it acquires the wayleave rights before entering into contracts when implementing projects to avoid litigations in the future.

Other Matters

2.0. Liquidation of Contractor under Exim Bank of India Projects

353. The contract for Lot 1A 220 KV Turkwel-Ortum-Kitale substations under the EXIM Bank of India Projects was entered into in April, 2013 with an expected completion date of 30 June, 2018. This contractor was contracted at a contract sum of USD 19,972,680, later revised downwards to USD 18,100,120. In July, 2018, the courts in India ordered liquidation of the contractor, resulting in financial challenges which made the contractor unable to complete the project. According to Management, by the time of liquidation in the home country, the contractor had achieved an overall completion status of 78% of the project. By the time of this audit, another contractor was in the process of being identified as a replacement to take over the remaining works. Consequently, the project may experience delays in completion as well as associated cost overruns.

Management Response

354. The Accounting Officer stated that Exim Bank gave KETRACO the approval and go-ahead to engage Jyoti Structures Ltd to construct substations at Turkwel, Ortum and Kitale. They were satisfied about the Contractor's technical

and financial ability to undertake the construction works. Jyoti Structures was declared bankrupt by the courts in India in the last quarter of 2018. Consequently, KETRACO issued them with a termination notice dated 17th September, 2018. Exim Bank of India gave authority to proceed and procure a replacement for Jyoti Structures. KETRACO, with the concurrence of Exim Bank of India entered into a contract with M/s Shyama Power for the completion of the substations at Ortum and Kitale. The project commenced in June 2022 and was completed in August 2024.

Committee Observation and Recommendation

355. The Committee observed that KETRACO obtained the approval from Exim Bank to engage the new contractor, hence the matter stands resolved.

3.0. Expiry of Loan Agreement

356. The loan agreement between the Company and African Development Bank for the construction of 132KM of 400KV double circuit transmission line from Lessos substation in Kenya, to Tororo substation in Uganda, which was effective from 20 September, 2010 expired on 31 December, 2017. At the time of expiry of the agreement, the loan account had an undrawn balance of Kes.2,720,466,827. The Report of the Auditor-General on Kenya Electricity Transmission Company Limited for the year ended 30 June, 2019 3 project has been at 61% level of completion since termination of the contractor for non-performance in April, 2016 and was at the same level at the time of audit. There was no evidence that the loan agreement had been renewed thus leaving an undrawn balance of Kes.2,720,466,827. Consequently, the project which is already behind schedule may experience significant cost overruns. Further, delivery of services to the intended beneficiaries may not be achieved.

Management Response

357. The Accounting Officer stated that the loan agreement between the Company and African Development Bank for the construction of 132KM of 400KV double circuit transmission line from Lessos substation in Kenya, to Tororo substation in Uganda, which was effective from 20 September, 2010 expired on 31 December, 2017. The contracts with the main contractor (*Inabensa*) for the project were terminated in April 2016. As at the time of termination the project was at 61% level of completion. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Kes. 102,165,144.20. However, KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa.

The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding the High Court ruling. The Court of appeal ruling was subjected to an appeal petition at The Supreme Court. The Supreme Court delivered their ruling upholding the Court of appeal ruling. KETRACO Management has requested The National Treasury through Ministry of Energy and Petroleum to finance completion of the project. This will allow for completion of the project hence realization of service delivery to the intended beneficiaries.

Committee Observations

358. The Committee observed at the time of examination that—

i) by the time the agreement expired, the contract had been terminated as a result of the arbitration case against KETRACO by the contractor;

ii) the Supreme Court case challenging the arbitral award in the arbitration case between KETRACO and *Instalaciones Inabensa S.* relating to the Lessos- Tororo transmission line was concluded and the award of 37 million Euros was upheld against KETRACO; and

iii) KETRACO in liaison with the Ministry of Energy and Petroleum and the National Treasury was in the process of negotiating the settlement of the arbitral award.

Committee Recommendation

359. The Committee recommends that the matter stands resolved since by the time the loan expired the contract had been terminated.

4.0. Arbitration on Terminated Contract

360. The arbitration case between the Company and *Instalaciones Inabensa S.* for termination of contract for the construction of 132KM of 400KV double circuit transmission line from Lessos substation in Kenya to Tororo substation in Uganda, has been unresolved since April, 2016. However, on 30 July, 2019, the tribunal issued an award in favour of the contractor amounting to Kes.4.5 billion. Management considers the decision to be against public interest and have sought the Attorney General's office for assistance in setting aside the tribunal's award. The delay in resolution for the past three financial years (2017-2019) has resulted in an expenditure on legal fees amounting to Kes.101,791,087.

361. In the circumstances, it is not certain whether the project will be completed in the near future. The Project is likely to incur additional costs, which would be necessary to complete the project, or losses which the Government of Kenya may suffer in the event that the project is not completed.

Management Response

362. The Accounting Officer stated that the contracts with the main contractor (*Inabensa*) for the project were terminated in April 2016. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Kes. 102,165,144.20. However, KETRACO appealed to the High Court for setting aside of the arbitral award *to Inabensa*. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding the High Court ruling. The Court of appeal ruling was subjected to an appeal petition at the Supreme Court. The Supreme Court delivered their ruling upholding the Court of appeal ruling. The Company has requested the National Treasury through Ministry of Energy and Petroleum for the financing of the project.

Committee Observations

363. The Committee observed at the time of examination that—

i) the Supreme Court case challenging the arbitral award in the arbitration case between KETRACO and *Instalaciones Inabensa S*. relating to the Lessos- Tororo transmission line was concluded and the award of 37 million Euros was upheld against KETRACO;

ii) at the time of termination of the contract, the works were at 51% and the cause of termination of the contract was due to abandoning of the site by the contractor. The Committee noted that the challenge of wayleave acquisition by KETRACO had led to the abandoning of site by the contractor;

iii) the management of KETRACO was negotiating to settle the arbitral award and was liaising with the relevant Ministries to first settle the principal award amounting to 31 million Euros and discussing the waiving of the interest amount; and

iv) The Committee was concerned that the project had delayed and the value for money and benefits of the transmission line might not be realized unless KETRACO progresses the idea of completing the project.

Committee Recommendation

364. The Committee recommends that KETRACO should henceforth ensure that it acquires the wayleave rights before entering into contracts when implementing projects to avoid litigation.

5.0. Pending Wayleave Compensations

365. According to information available, the Company has outstanding compensation to landowners for wayleaves amounting to Kes.3,397,470,947. Management has attributed failure to pay this amount to lack of budgetary allocation from The National Treasury and long negotiations between land owners, the Company and various County Governments. The delays in compensating Project Affected Persons may lead to legal suits, cost escalations and project delays.

Management Response

366. The Accounting Officer stated that the long outstanding wayleave balances are occasioned by:

- insufficient budget allocation;
- incomplete documentation and disputes on the Payee; and
- in some cases, this involves litigation which takes a longer time to resolve.

The company continues to receive exchequer support from the Government of Kenya to facilitate payment of pending wayleaves, Payment of outstanding wayleaves is based on available budget. The company is collaborating with other government agencies to resolve disputes relating to wayleave compensation. Wayleave balance as at May 2025 has reduced to Kes. 1,434,958,319.

Committee Observations

367. The Committee observed at the time of examination that—

i) there was a significant reduction of the outstanding compensation amounts from Kes.3,051,321,123 to Kes.1,434,958,319, since the management had made efforts to compensate the landowners. However, some long-standing wayleave compensation cases remained pending; and

ii) two transmission lines serving the western region of the country; the Ndhiwa–Sondu line and the Narok–Bomet line had experienced challenges related to wayleave compensation, resulting in delays in project completion.

Committee Recommendations

368. Within three (3) months of adoption of this report, the Company should expedite the compensation of the landowners to avoid lawsuits by the landowners and submit a report on the status of compensation to the OAG.

369. The Committee recommends that where the projects are donor funded, the wayleave compensation costs should be included as part of the project cost.

370. Further, the Committee recommends that KETRACO should ensure it undertakes resource mobilisation of wayleave compensations before undertaking the projects.

6.0. Delay in Completion of Projects

371. According to reports on the projects' physical progress, there were significant delays in completion of four (4) of the projects under implementation by the Company, details of which have been enumerated severally in the respective projects audit report. These Projects are: the 220KV and 132KV Transmission Lines and Substations Projects (Exim Bank) Project, Power Transmission System Improvement Project, Multinational Kenya Tanzania Power Interconnection Project; and Kenyan Section of Interconnection Project of Electric Grids of Nile Equatorial Lakes Countries Project. Continued delay in the completion of these Projects may result in delayed delivery of services to the public and the incidental cost overruns.

Management Response

a). Lessos Tororo Project

372. The contracts with the main contractor (*Inabensa*) for the project were terminated in April 2016. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Kes. 102,165,144.20. However, KETRACO appealed to the High Court for setting aside of the arbitral award to *Inabensa*. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding the High Court

ruling. The Court of appeal ruling was subjected to an appeal petition at the Supreme Court. The Supreme Court delivered their ruling upholding the Court of appeal ruling.

373. Management has requested the National Treasury through Ministry of Energy and Petroleum to finance completion of the project. This will allow for completion of the project hence realization of service delivery to the public.

b). Power Transmission System Improvement Project

374. The contractor for the substations China CAMCEC o. Ltd finished the associated substations and issued with completion certificate in 2015 as per the attached completion certificate. The contractor for the transmission lines at the time, Jyoti Structures Limited was terminated on 17/09/2018 because of bankruptcy. Before termination the contractor had completed Ishiara Kieni and Bomet Sotik Transmission Lines. A new contract was issued on 15th April 2019 for the remaining works on the Transmission line to China CAMCE Co. Ltd, they are expected to complete by December 2025. The project remaining sections are Mwingi-Wote which is at 75% complete and Lessos-Kabarnet which is at 95% complete.

c). Exim Bank of India Funded Projects

375. Both Turkwel Ortum Kitale and Machakos Konza Kajiado Namanga are 100% complete. The delay in completion of the projects was as a consequence of;

i) Machakos Konza Kajiado Namanga project-the PAPs requested for additional compensation resulting into prolonged negotiations and court cases. These issues were resolved through negotiation and out of court settlement.
ii) Turkwel Ortum Kitale project-delay was occasioned by termination of Jyoti Structures Limited due to bankruptcy.

d). Kenya-Tanzania.

376. The project was completed in 2024 and will be capitalized in the current financial year 2024/2025.

Committee Observations

377. The Committee observed at the time of examination that—

i) Kenyan Section of Interconnection Project of Electric Grids of Nile Equatorial Lakes Countries Project - The project had stalled due to contract cancellation and currently no works were ongoing;

ii) Kenya Power Transmission System Improvement Project - the Lessos-Kabarnet and Kitui- Wote projects were completed;

iii) Exim Bank of India Funded Projects - the project was fully completed; and

iv) Multinational Kenya Tanzania Power Interconnection Project - the project was fully completed.

Committee Recommendation

378. The Committee recommends that the Company should fast track the completion of the Kenyan Section of Interconnection Project of Electric Grids of Nile Equatorial Lakes Countries Project so that there is value for money from the project.

379. Within three (3) months of adoption of this Report, the Accounting Officer to submit a status report on the pending projects to the OAG for verification.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

7.0. Lack of Contractual Agreements for Revenue Billing

380. The Company does not have a signed agreement with Kenya Power and Lighting Company (KPLC), which sets the terms for billing the wheeling revenue. Although, according to Management, wheeling revenue is based on a tariff determined by an independent party, Management should ensure that a contract is drawn and signed with KPLC, specifying the terms and conditions of the credit period. In the absence of such a binding agreement, resolution of differences and disputes arising between the two parties may be difficult. Further, all other contracts between the Company and other third parties should be approved and signed to mitigate against any potential disputes which may arise.

Management Response

381. The Accounting Officer stated that the accounts receivable related to unpaid wheeling revenue by Kenya Power, who is KETRACO's major customer. The company has policy guidelines on debtors' management as captured in finance procedures and policy manual.

Committee Observations

382. The Committee observed at the time of examination that—

i) the management had prepared a draft remittance agreement between KETRACO and KPLC to guide revenue billing however, KPLC's was yet to sign the agreement; and

ii) KETRACO and KPLC carry out revenue reconciliation on a monthly and quarterly basis.

Committee Recommendations

383. The Committee recommends that KETRACO and KPLC should expedite the negotiations and signing of the agreement that will guide revenue billing and submit a status report on the signing of the agreement to the OAG within three (3) months upon adoption of this report.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

8.0. Lack of Projects and Company Inter-Reconciliation

384. The Company's financial reporting framework is International Financial Reporting Standards (IFRS), while the donor funded projects' financial reporting framework is Report of the Auditor-General on Kenya Electricity Transmission Company Limited for the year ended 30 June, 2019 5 International Public Sector Accounting Standards (IPSAS Cash Basis). However, no periodic reconciliations are carried out between the Projects' and the Company's financial statements with the view of reconciling the balances in the two sets of financial statements, which are prepared under different reporting frameworks. Management has not explained why such reconciliations are not carried out on a regular basis, and any discrepancies investigated and resolved with relevant adjustments. This may result to accounting errors and irregularities not being identified and corrected on a timely basis.

Management Response

385. The Accounting Officer stated that during the year management ensured that the 'discrepancies' arising from the different Reporting Basis for projects and financial reports are reconciled on a regularly.

Committee Observations and Recommendations

386. The Committee observed at the time of examination that the management had complied with the Public Sector Accounting Standard Board (PSASB) in the preparation of company's financial statements and the Projects Financial statements.

387. Further the Committee observed that the reconciliation of the separate statements was carried out and audited independently. Therefore, the matter stands resolved.

9.0. Lack of Policy for Provision for Doubtful Accounts

388. The Company had trade receivables amounting to Kes.24,263,000, as disclosed in Note 16 (b) to the financial statements. However, the assessment on the controls on debt management indicates that the Company does not have a clear documented policy for determining provision for doubtful receivables, against the trade receivables totaling Kes.24,263,000. Management has not explained why they have not developed and applied such a policy, which would provide the Company with an objective valuation of its accounts receivables, to allow the monitoring of the collectability of receivables proactively and take appropriate action.

Management Response

389. The Accounting Officer stated that the updated finance policies and procedures manual incorporates a policy on provision for doubtful debts. The policy document was approved by the board of directors in FY 2019/20.

Committee Observations and Recommendations

390. The Committee observed at the time of examination that the management had an approved finance policy and procedures manual document in place which caters for provision for Doubtful Accounts. Therefore, the matter stands resolved.

10.0. Lack of an Updated ICT Policy and Procedures Manual

391. Review of the Company's policy manuals revealed that the ICT policy and procedures manual was last reviewed in September, 2010. Although according to Management the policy review is on-going, the policy documents are yet to be formally signed off by Management. Management has not periodically reviewed and updated the ICT policies, which would guide both the ICT staff and business users on how to interact with the ICT systems. Management may

not have adequate mechanisms to address emerging ICT threats to the Company's systems. Further, a review of other policy manuals of the Company revealed lack of critical policies in change management, incident management policy and disaster recovery plan. In addition, SAP access rights of 15 former employees were yet to be cancelled, posing a high risk of unauthorized use of the system. Management has not formulated, documented, approved and widely circulated policy manuals covering the above specified areas to all staff members, to ensure compliance

Management Response

392. The Accounting Officer stated that the departmental policies have been reviewed and approved by the Board of Directors. The ICT policies have now been updated with the controls and the sections highlighted were addressed. The policy was approved by the Board of Directors in FY 2019/2020.

Committee Observation and Recommendation

393. The Committee observed at the time of examination that the company had an approved ICT Policy and Procedures Manual. Therefore, the matter stands resolved.

FINANCIAL YEAR 2019/2020

Emphasis of matter

11.0 Contingent Liabilities

394. I draw attention to Note 29(b) to the financial statements which discloses that the Company's estimated contingent liabilities consist of ongoing court cases relating to acquisition of wayleaves and contractors' claims beyond the original contract period, amounting to Kes.6,424,412,000. According to Management, the status of these exposures is evaluated on a regular basis to assess the probability of incurring related liabilities. However, in the event that these contingent liabilities crystalize, the Company may be exposed to unforeseen project cost overruns, resulting to inability to meet its obligations when they fall due. This may affect service delivery capacity of the Company.

Management Response:

395. The Accounting Officer stated that the provisions and contingent liabilities are continuously evaluated by management to assess basis of crystalizing. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and

Kes. 102,165,144.20. However, KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding the High Court ruling. The Court of appeal ruling was subjected to an appeal petition at the Supreme Court. The Supreme Court delivered their ruling upholding the Court of appeal ruling. In the meantime, the Company requested the National Treasury through Ministry of Energy and Petroleum for the financing of the project on 20th August 2020 which has not been responded to.

Committee Observations

396. The Committee observed at the time of examination that—

i) the Supreme Court case challenging the arbitral award in the arbitration case between KETRACO and *Instalaciones Inabensa S* relating to the Lessos-Tororo transmission line was concluded and the award of 37 million Euros was upheld against KETRACO;

ii) at the time of termination of the contract, the works were at 51% and the cause of termination of the contract was due to abandoning of the site by the contractor. The Committee noted that the challenge of wayleave acquisition by KETRACO had led to the abandoning of site by the contractor;

iii) the management of KETRACO was negotiating to settle the arbitral award and was liaising with the relevant ministries to first settle the principal award amounting to 31 million Euros and discussing the waiving of the interest amount; and

iv) the Committee observed that the project had delayed and the value for money and benefits of the transmission line has not be realized.

Committee Recommendation

397. The Committee recommends that KETRACO should henceforth ensure that it acquires the wayleave rights before entering into contracts when implementing projects to avoid litigation.

12.0 Recoverability of Amounts Due from Kenya Power and Lighting Company Limited (KPLC)

398. As disclosed in Note 21(a) to the financial statements, the financial statements reflect outstanding balances arising from services rendered to KPLC

of Kes.6,114,389,000. The outstanding amounts have increased by Kes.2,110,327,000 or 53% from the amount of Kes.4,004,062,000, reported in 2018/2019. In addition, review of the outstanding receivables revealed that 50% were in arrears for more than 365 days. The significant increase in the amounts due from KPLC had a significant negative impact on the Company's profitability for the current year. This impact arose from expected credit losses computed as per IFRS 9, which increased by Kes.1,468,026,000 compared to Kes.553,191,000, reported in 2018/2019, as disclosed in Note 7(b) to the financial statements. Further, there was no evidence of a payment plan from KPLC for the outstanding amounts, as at the end of the financial year under review. The above significant amounts due from KPLC, may have resulted in liquidity challenges in the Company. Further, considering that the outstanding balances are not interest earning, the Company incurred an opportunity cost with respect to income which would have been earned, had the funds been invested elsewhere.

Management Response:

399. The Accounting Officer stated that the remittance of funds by KPLC during the financial year 2019/2020 was Kes. 6,114,389,000 which includes payment of pending invoices. Payment remittances are monthly. This has seen a reduction of receivable from Kes. 6,114,389,000 to Kes. 2,669,438,016 as at May 2025. This has resulted into a significant reduction in the provision of credit loss.

Committee Observation

400. The Committee observed at the time of examination that the amounts due from KPLC had significantly reduced from Kes. 6,114,389,000 to Kes. 2,669,438,016 since KPLC had made substantial remittance of funds to KETRACO.

Committee Recommendations

401. The Committee recommends that KETRACO should follow up on the amounts due to ensure that they are fully settled and submit a status report on the settlement to the OAG within three (3) months of adoption of this report.

Other Matter

13.0 Liquidation of Contractor Under Exim Bank of India Projects

402. As reported in the prior year, the contract for Lot 1A 220 KV Turkwel-Ortum-Kitale substations under the EXIM Bank of India Projects was entered into on 16

April, 2013 with an expected completion date of 30 June, 2018. The contractor was contracted at a sum of USD 19,972,680, later revised downwards to USD 18,100,120. In July, 2018, the courts in India ordered liquidation of the contractor, resulting in financial challenges which made the contractor unable to complete the project. According to Management, by the time of liquidation in the home country, the contractor had achieved an overall completion status of 78% of the project. According to Management, another contractor has been identified to take over the remaining works and the formal contract signing expected in April, 2021. According to the proposed contract, the contractor is expected to complete the outstanding works within a period of ten (10) months. Consequently, the project may experience delays in completion as well as associated cost overruns.

Management Response

403. The Accounting Officer stated that Exim gave KETRACO the approval and go-ahead to engage Jyoti Structures Ltd to construct substations at Turkwel, Ortum and Kitale. They were satisfied about the Contractor's technical and financial ability to undertake the construction works. Jyoti Structures was declared bankrupt by the courts in India in the last quarter of 2018. Consequently, KETRACO issued them with a termination notice dated 17th September, 2018. Exim Bank of India gave authority to proceed and procure a replacement for Jyoti Structures. KETRACO, with the concurrence of Exim Bank of India entered into a contract with M/s Shyama Power for the completion of the substations at Ortum and Kitale. The project commenced in June 2022 and was completed in August 2024.

Committee Observations and Recommendations

404. The Committee observed at the time of examination that KETRACO had obtained the approval and go-ahead from Exim Bank to engage the new contractor. Therefore, the matter stands resolved.

14.0 Expiry of Loan Agreement with African Development Bank

405. As reported in the prior year, the loan agreement between the Company and the African Development Bank for the construction of 132KM of 400KV double circuit transmission line from Lessos Substation in Kenya, to Tororo Substation in Uganda, which was effective from 20 September, 2010 expired on 31 December, 2017. At the time of expiry of the agreement, the loan account had an undrawn balance of Kes.2,720,466,827. The project has been at 61%

level of completion since termination of the contractor for non-performance in April, 2016 and was at the same level at the time of audit. In addition, no funds had been received from the African Development Bank since 2016, from the loan account which had an undrawn balance of Kes.2,720,466,827. Review of the project's cash and pending bills as at 30 June, 2020 revealed a funding shortfall of Kes.818,907,767. There was no evidence of renewal of the loan agreement or identification of other sources of funding for the project. Report of the Auditor-General on Kenya Electricity Transmission Company Limited for the year ended 30 June, 2020 6 Consequently, the project which is already behind schedule may experience significant cost overruns, as well as delayed delivery of services to the intended beneficiaries.

Management Response

406. The Accounting Officer stated that the African Development Bank financing agreement expired and was cancelled/closed in December 2017. At the time of loan expiry, the undrawn balances amounted to Kes equivalent 2,720,466,827. The financing agreement is not to be extended. KETRACO has requested the National Treasury through Ministry of Energy and Petroleum to seek alternative financing for completion of the project. This will allow for completion of the project hence realization of the investment in the project.

Committee Observations

407. The Committee observed at the time of examination that—
   i) by the time the agreement expired, the contract had been terminated as a result of the arbitration case against KETRACO by the contractor;
   ii) the Supreme Court case challenging the arbitral award in the arbitration case between KETRACO and Instalaciones Inabensa S relating to the Lessos-Tororo transmission line was concluded and the award of 37 million Euros was upheld against KETRACO and KETRACO in liaison with the Ministry of Energy and Petroleum and the National Treasury is in the process of negotiating the settlement of the arbitral award.

Committee Recommendation

408. The Committee recommends that the matter stands resolved since by the time the agreement expired, the contract had been terminated.

15.0 Court Award on Terminated Contract

409. The arbitration case between the Company and a contractor for the termination of contract for the construction of 132KM of 400KV double circuit transmission line from Lessos substation in Kenya to Tororo substation in Uganda, has been unresolved since April, 2016. The tribunal issued an award in favour of the contractor on 30 July, 2019 amounting to Euro 37,365,691 or approximately Kes.4.5 billion, which included termination costs, legal cost and other claims amounting to Kes.2,223,137,553. Management considered the decision to be against public interest and sought assistance from Attorney General's office in setting aside the Tribunal's award. However, the award was upheld by the High Court of Kenya on 16 February, 2020. Further, it is not possible to confirm whether the project will be completed in the near future, and the additional costs which would be necessary to complete the project, or the losses which the Government of Kenya will suffer in the event that the project is not completed. Consequently, the award has resulted to unforeseen legal and arbitration costs, termination charges, and other claims.

Management Response

410. The Accounting Officer stated that the contracts with the main contractor (Inabensa) for the project were terminated in April 2016. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Kes. 102,165,144.20. However, KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding the High Court ruling. The Court of appeal ruling was subjected to an appeal petition at the Supreme Court. The Supreme Court delivered their ruling upholding the Court of appeal ruling. The Company has requested the National Treasury through Ministry of Energy and Petroleum for the financing of the project.

Committee Observations

411. The Committee observed at the time of examination that—

i) the Supreme Court case challenging the arbitral award in the arbitration case between KETRACO and *Instalaciones Inabensa S* relating to the Lessos-Tororo transmission line was concluded and the award of 37 million Euros was upheld against KETRACO;

ii) at the time of termination of the contract, the works were at 51% and the cause of termination of the contract was due to abandoning of the site by

the contractor. The Committee noted that the challenge of wayleave acquisition by KETRACO had led to the abandoning of site by the contractor;

iii) the management of KETRACO was negotiating to settle the arbitral award and was liaising with the relevant ministries to first settle the principal award amounting to 31 million Euros and discussing the waiving of the interest amount; and

iv) The Committee observed that the project had delayed and the value for money and benefits of the transmission line had not be realized.

Committee Recommendation

412. The Committee recommends that KETRACO should henceforth ensure that it acquires the wayleave rights before entering into contracts when implementing projects to avoid litigation.

16.0 Pending Wayleave Compensations

413. Review of wayleave compensations revealed that the Company has outstanding compensation to landowners for wayleaves amounting to Kes.3,051,321,123. Management has attributed failure to pay this amount to insufficient budgetary allocation from The National Treasury and long negotiations between land owners, the Company and various County Governments. Delays in compensating Project Affected Persons, (PAPs) may lead to legal suits, cost escalations and project delays.

Management Response

414. The Accounting Officer stated that the long outstanding wayleave balances are occasioned by:

- Insufficient budget allocation,
- Incomplete documentation and disputes on the Payee.
- In some cases, this involves litigation which takes a longer time to resolve.

The company continues to received exchequer support from the Government of Kenya to facilitate payment of pending wayleave, payment of outstanding wayleaves is based on available budget. The company is collaborating with other government agencies to resolve disputes relating to wayleave compensation. Wayleave balance as at May 2025 has reduced to Kes.1,434,958,319.

Committee Observations

415. The Committee observed at the time of examination that—

i) there was a significant reduction of the outstanding compensation amounts from Kes.3,051,321,123 to Kes.1,434,958,319, since the management had made efforts to compensate the landowners. However, some long-standing wayleave compensation cases remained pending; and

ii) two transmission lines serving the western region of the country; the Ndhiwa–Sondu line and the Narok–Bomet line, had experienced challenges related to wayleave compensation, resulting in delays in project completion.

Committee Recommendations

416. The Committee recommends that the Company should expedite the compensation of the landowners to avoid lawsuits by the landowners and submit a report on the status of compensation to the OAG within three (3) months of adoption of this report.

417. The Committee recommends that where the projects are donor funded, the wayleave compensation costs should be included as part of the project cost.

418. Further, the Committee recommends that KETRACO should ensure it undertakes resource mobilisation of wayleave compensations before undertaking the projects.

17.0 Delay in Completion of Projects

419. According to reports on projects' physical progress, there were significant delays in completion of five (5) of the projects under implementation by the Company, whose details have been enumerated severally in the respective project audit report as summarized below:

(i) The 220KV and 132KV transmission lines and Substations Projects (Exim Bank) Project - The completion status for Lot 1A-220KV substation at Turkwel, Ortum and Kitale is at 78% completion while Lot 3A-132/33KV Machakos-Konza-Kaijado-Namanga transmission line is at 60% completion status.

(ii) Kenya Power Transmission System Improvement Project - The erections of towers for the Olkaria-Narok and Lessos-Kabarnet transmission line is at 54% and 73% completion respectively, while the stringing on both lines had not started. Report of the Auditor-General on Kenya Electricity Transmission Company Limited for the year ended 30 June, 2020 7

(iii) The Multinational Kenya Tanzania Power Interconnection Project - Lot K1 Isinya-Namanga transmission line was at 49% completion by 30 June, 2020. The project is behind schedule considering that the expected completion date was April, 2020 and significant works are yet to be done.

(iv) Kenyan Section of Interconnection Project of Electric Grids of Nile Equatorial Lakes Countries Project - The construction works on the project had stalled by 30 June, 2020. The project was scheduled to be completed by 31 December, 2017. However, following a dispute with Instalaciones Inabensa S.A, the main contractor, the contract was terminated in April, 2016.

(v) Nairobi Ring Transmission Line - the ongoing works related to Malaa Sub-station is at 64% completion status.

Continued delay in the completion of these projects may result in cost overruns and delayed delivery of services to the public.

Management Response

1) Both Turkwel Ortum Kitale and Machakos Konza Kajiado Namanga are 100% complete.

420. The delay in completion of the projects was as a consequence of; Lot 3A - the PAPs requested for additional compensation resulting into prolonged negotiations and court cases. These issues were resolved through negotiation and out of court settlement. Lot 1A -delay was occasioned by termination of Jyoti Structures Limited due to bankruptcy.

2) KPTSIP- The contractor for the substations China CAMCE Co. Ltd finished the associated substations and issued the completion certificate in 2015.

421. The contractor for the transmission lines at the time, Jyoti Structures Limited was terminated on 17/09/2018 because of bankruptcy. Before termination the contractor had completed Ishiara Kieni and Bomet Sotik Transmission Lines as per the attached completion certificate. A new contract was issued on 15th April 2019 for the remaining works on the Transmission line to China CAMCE Co. Ltd, they are expected to complete by December 2023. The project remaining sections are Mwingi Wote which is at 75% complete and Lessos Kabarnet which is at 95% complete.

3) The Multinational Kenya Tanzania Power Interconnection Project was completed in 2024 and will be capitalized in the current financial year 2024/2025.

4) Nairobi Ring Transmission Line Project -Delays in completion of Malaa substation was occasioned by delayed site hand over for the substation in June 2018 as well as the disruptions of Covid-19 pandemic in 2020. The project is adequately funded therefore the escalation of project costs is less probable since the project is currently on course and is expected to be competed in February 2026.

5) Multinational – Kenyan Section of Interconnection Project of Electric Grids of Nile Lakes Countries:

422. The contracts with the main contractor (*Inabensa*) for the project were terminated in April 2016. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Kes. 102,165,144.20. However, KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding the High Court ruling. The Court of appeal ruling was subjected to an appeal petition at the Supreme Court. The Supreme Court delivered their ruling upholding the Court of appeal ruling. Management has requested The National Treasury through Ministry of Energy and Petroleum to finance completion of the project. This will allow for completion of the project hence realization of service delivery to the public.

Committee Observations

423. The Committee made the following observations regarding the four projects: -

i) Kenyan Section of Interconnection Project of Electric Grids of Nile Equatorial Lakes Countries Project - The project had stalled due to contract cancellation and currently no works were ongoing.
ii) Kenya Power Transmission System Improvement Project - the Lessos-Kabarnet and Kitui- Wote were completed;
iii) Exim Bank of India Funded Projects - the project was fully completed.
iv) Multinational Kenya Tanzania Power Interconnection Project - the project was fully complete.

Committee Recommendation

424. The Committee recommends that the Company should fast track the completion of the Kenyan Section of Interconnection Project of Electric Grids of Nile Equatorial Lakes Countries Project so that there is value for money from the projects.

425. Within three (3) months upon adoption of this report, the Accounting Officer to submit a status report on the pending projects.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

18.0 Non-Compliance with Loan Novation Agreement

426. The loan related to the construction of the Kamburu-Meru transmission line was transferred from Kenya Power and Lighting Company (KPLC) to Kenya Electricity Transmission Company (KETRACO), on 19 October, 2016. According to the novation agreement, KETRACO is required to make bi-annual payments to the Government of Kenya (GoK) on account of outstanding interest at a rate of 2.5% per annum, as detailed on the table below;

Loan	Amount (Chinese Yuan)	Equivalent Amount Kes.
Loan Balance	145,669,690	2,194,950,889
Accrued Interest	23,361,176	352,006,204
Total due	169,030,866	2,546,957,092

However, as at 30 June, 2020, the Company had not made any payments to the GoK, as stipulated in the novation agreement. Management has indicated that a moratorium for twenty-four (24) months had been sought from The National Treasury. However, this request for moratorium was yet to be considered by The National Treasury.

Consequently, Management was in breach of the provisions of the novation agreement

Management Comments:

427. The Accounting Officer stated that in FY 2019/2020 Ministry of Energy and Petroleum formed a Task Force to address energy sector emerging issues.
From the Task Force report, the implementing agencies in the energy sector were to be given a moratorium on repayment of government on lent loans for 24 months. The loan mentioned above was part of the loans to be considered

for the moratorium. However, a moratorium was not given for the loan in question. The company has engaged EPRA to consider additional tariff allocation to be utilized in repaying the loan.

Committee Observations

428. The Committee observed at the time of examination that—
   i) the loan was supposed to be paid from the tariffs by KPLC;
   ii) KETRACO had requested EPRA to approve an additional tariff allocation that was to be utilized in repaying, however, EPRA had not responded to the request;
   iii) there was a tariff reduction in the prior years that had affected loan repayment; and
   iv) the company had so far repaid Kes. 288,458,384.00 of the loan.

Committee Recommendation

429. The Committee recommends that the matter remains unresolved since the loan is still outstanding.

19.0 Undrawn Funding Balances under Eastern Electricity Highway Project

430. The Eastern Electricity Highway Project had an approved budget of USD 441,000,000, UA 75,000,000, EUR 77,500,000 and Government counterpart funds of Kes.8,585,000,000, all equivalent to Kes.75,803,028,400. The project was expected to be completed by 30 September, 2020. However, as at 30 June, 2020, there was an undrawn balance of Kes.35,658,914,156 or approximately 47% of the project funding, and pending bills of Kes.2,640,343,389. The undrawn funding might not be absorbed fully by the time of expiry of the funding period on 31 December, 2022. Management attributes the slow absorption of funds to the savings on the financing structure derived from the Project Appraisal Document; the savings realized after the tendering process and awards to various contractors; and savings made from wayleave financing which is based on actual valuations, which are currently lower than the estimates. Management is in the process of making proposals for new projects and has already commenced re-allocation of the savings to those projects. However, until these project proposals, together with related approvals are finalized, the Company will continue to lock up development funds in the current project.

Management Response

431. KETRACO got approvals from the development partners to utilize the savings as follows: Kenya Green and Resilient Expansion of Energy (GREEN) Phase II was envisaged to be financed under the savings from Eastern Electricity Highway Project. However, as per the Aide Memoire of the Mission, further extension of the project was not feasible. The available funding under the EEP was therefore planned for cancellation and the funds recommitted to support Phase II under a new financing. The ADB financing savings were redirected to support the construction of Mariakani Substation and the Nanyuki-Rumuruti Underground Cable Projects.

Committee Observation and Recommendation

432. The Committee observed at the time of examination that the funds were recommitted to support the construction of Mariakani Substation and the Nanyuki-Rumuruti Underground Cable Projects hence the matter stands resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

20.0 Asset Tagging and Physical Verification

433. Review of the Company's fixed assets register revealed that the assets are not tagged, and the Company does not carry out periodic asset verification to verify existence of the assets. Consequently, lack of tagging and physical verification may lead to the assets being damaged, lost or stolen. Furthermore, it may be difficult to verify the existence of such assets since they cannot be traced from the register to the various locations.

Management Responses:

434. The Accounting Officer stated that the company policy is to undertake asset verification on a bi-annual basis as anchored in the revised finance manual. In the year under review the verification process was affected by the covid-19 pandemic. The company has done asset tagging and revaluation of all movable assets and updated the asset register.

Committee Observations and Recommendation

435. The Committee observed at the time of examination that the asset tagging and revaluation of all movable assets were done and the asset register updated. Therefore, the matter stands resolved.

FINANCIAL YEAR 2020/2021

21.0 Deferred Grant Income

436. The statement of financial position reflects total deferred grant income of Kes.189,891,542,000 which, as disclosed in Note 20 to the financial statements comprises of Kes.70,915,400,000 and Kes.118,976,142,000 in respect of direct and indirect grants respectively. Review of records revealed that the Company received an amount of Kes.19,836,802 from the Ministry of Energy and Petroleum. However, records from the Ministry reflected an amount of Kes.10,831,798,269 resulting to an unexplained variance of Kes.9,005,004,000. Further, the statements of profit or loss and other comprehensive income reflects amortized grant from Government income amounting to Kes.2,192,104,000 which differs with the current grant amortization reported in the previous year as grant income to be amortized over 12 months of Kes.2,233,745,000 resulting to an unexplained variance of Kes.41,641,000. In the circumstances, the accuracy of grants receipts and amortized grant income thereof could not be confirmed.

Management Response:

437. The Accounting Officer stated that the total grant addition was 19,836,802,000 comprising of Exchequer Development 6,816,300,000 and Development partner support 13,020,502,000 as per note 20 of the financial statements. The Development partner support comprises of Direct component of 9,005,004,000 and Revenue Transfer through the Ministry of 4,015,498,000. The assertion that the outstanding direct component of Kes. 70,915,400,000 would be amortized over 61 years, and 118,976,142,000 would take 119 years to be amortized is incorrect, because under the IAS 20(Accounting for Government Grants and Disclosure of Government Assistance), and the company policy, the grants are recognized as deferred income and amortized over the useful life of capitalised assets, which is 40 years. These therefore excludes grants relating to assets under construction. Under Note 13, Property and Equipment, the value of capitalised assets that qualify for grant amortization is Kes. 94,152,169,000 which has been used as a basis for grant amortization.

438. Computation of deferred grant income only takes into account projects that have been capitalized as per IAS 20. It is expected that deferred grant income will keep on changing due to changes in assets value. The amortisation year by year is based on the closing balances of the Assets financed by the deferred grant income.

Committee Observation and Recommendation

439. The Committee observed at the time of examination that computation of deferred grant income had been undertaken on projects that had been capitalized, hence the matter stands resolved.

22.0 Capital Work in Progress

440. The statement of financial position as disclosed in Note 13 to the financial statements reflects an amount of Kes.111,471,881,000 in respect of capital work in progress while the supporting schedule provided for audit indicated a balance of Kes.111,015,936,000 resulting in an unexplained variance of Kes.455,945,000. Review of the financial records revealed that projects valued at Kes.17,015,210,520 were completed in the previous financial years but had not been capitalized. Management has not explained the reasons for not capitalizing the projects. Further, projects valued at Kes.25,566,410,286 were still ongoing but had exceeded their respective contract completion dates. However, Management has not explained the reasons for the delay in completion of the projects or provided evidence of approval of the contract extension as required by Section 139(2) of the Public Procurement and Asset Disposal Act, 2015. In the circumstances, the accuracy and completeness of the capital work in progress balance of Kes.111,471,881,000 could not be confirmed.

Management Response

441. The Accounting Officer stated that the Note 13 total work in progress for financial year 2020/2021 is Kes. 111,471,881,000 is supported by a schedule. Completion certificate for OLK was signed and received after year end. The Kes. 17,015,210,520 relates to the projects as analysed below—

i) Olkaria Lessos Kisumu – The completion certificates were signed after year end and the project was capitalised in financial year 2021/2022.

ii) Mwingi Wote Kitui Sultan Hamud – The project was partially completed and capitalised. The section that was completed and capitalised is Mwingi-Kitui and Wote-Sultan Hamud. The section that is still ongoing under WIP is Kitui-Wote which is at 75% complete and will be capitalised upon completion.

iii) Nanyuki Isiolo Meru - The delay was because of Department of Defence (Laikipia Airbase) objecting to construction of overhead line within Nanyuki Municipality despite approval before commencement of the project. KCAA directed we do underground cables within proximity of Laikipia Airbase

causing KETRACO to seek funding for underground cable. The funding for the underground cable was obtained from savings of EEHP(ADB) and new contractor have since been awarded and works are expected to be completed in December 2025.

iv) Sondu-Homabay is 85% complete – The delay in completion was occasioned by contractors' bankruptcy. A new contractor was procured on 27th March 2024 and is expected to complete the project as at August 2025.

v) The Multinational Kenya Tanzania Power Interconnection Project was completed in 2024 and capitalized in the financial year 2024/2025.

vi) Machakos-Konza is 100% complete. Isinya Namanga is pending because of delayed wayleave compensation attributed to inadequate funding by National Treasury. KETRACO management has requested for additional funding in the FY 2021/2022 to cater for wayleave compensation. Contract extension addendum to 31 July 2021.

vii) Rabai Bamburi Kilifi TL project contract was signed on the 13th of November 2015 and the loan agreement finalised on 7th April 2017. The project commencement date was 26th March 2020 and intended to run for twenty-two months. The project is 84.5% complete, overall, the transmission line engineering design is 90% complete while substation engineering design is at 78%. the procurement is a about 79% complete. In addition, 241/241 foundations and 227/241 erection have been completed on the transmission line and geotechnical investigation has been conducted on the proposed new substation.

viii) Awendo Isebania TL-Work for the project were completed in June 2025 and the line has been energized.

Committee Observations

442. The Committee observed from the explanation of the Accounting Officer at the time of examination that although some components of some projects were complete, some were still pending hence the projects had not been capitalised.

Committee Recommendations

443. The Committee recommends that the management should fast track completion of the pending projects so that the projects can be capitalised.

444. Within three (3) months upon adoption of this Report, the Accounting Officer to submit the status report of the pending projects to the OAG for verification.

23.0 Trade and Other Payables

23.1 Unsupported VAT Payable

445. The statement of financial position as at 30 June, 2021 reflects trade and other payables balance of Kes.18,069,482,000. However, the balance includes, VAT payable output tax amounting to Kes.1,163,953,516 that was not supported by VAT returns duly acknowledged by Kenya Revenue Authority. Under the circumstances, the accuracy and completeness of the VAT payable of Kes.1,163,953,516 could not be confirmed.

Management Responses

446. The Accounting Officer stated that the VAT payable amount of Kes. 1,163,953,245 is the cumulative VAT on sales captured in the SAP system under the VAT output account. This amount has been declared through the monthly VAT returns which is inclusive of the schedule and details of the VAT amount payable. During the filing of the VAT returns output VAT i.e. VAT on payables is offset against the input VAT (VAT on receivables). VAT payable and VAT receivable amounts are held in separate accounts in the SAP system hence the cumulative amounts. Journals have been passed to offset the cumulative amount in VAT output against the cumulative VAT input amount and a reconciliation of the net balance in the VAT payable account was undertaken.

Committee Observations and Recommendations

447. The Committee observed at the time of examination that a reconciliation on the VAT payable account had been undertaken. Therefore, the matter stands resolved.

23.2 Undisclosed Amounts Due to Kenya Electricity Generating Company Limited

448. The statement of financial position as at 30 June, 2021 reflects trade and other payables of Kes.18,069,482,000. However, the amount excludes a balance of Kes.4,481,056,467 in respect of transmission lines that were done during the financial year 2008/2009 or earlier by Kenya Electricity Generating Company (KenGen) and which are used in the furtherance of Company's business for revenue generation. Although the Company continues to generate revenue from the transmission lines, there was no evidence provided to

indicate that the they have been included as part of the plant, property and equipment. Further, although the transmission lines were financed through a loan, the Company has not recognized any interest charged on this loan since the takeover of the lines. Management of KenGen indicate that there has been negotiation for transfer of the assets to the Company which if concluded would increase the operations costs of the Company due to the accruing interest and impact cash outflows due to loan repayments every year. Under the circumstances, the accuracy and completeness of the payables balance of Kes.18,069,482,000 could not be confirmed.

Management Responses

449. The Olkaria I and IV transmission line was implemented by KenGen through loan financing and was to be transferred to KETRACO upon completion of novation agreement. The novation agreement was signed on 29th August 2024 and the Government through National Treasury undertook to settle the project costs on behalf of KETRACO.

Committee Observations and Recommendations

450. The Committee observed at the time of examination that the novation agreement between KENGEN and KETRACO had been signed and the Government, through the National Treasury undertook to settle the project costs on behalf of KETRCO. Therefore, the matter stands resolved.

24.0 Trade and Other Receivables

24.1 Unsupported Receivables Balances

451. The statement of financial position reflects trade and other receivables of Kes.9,726,373,000 which is net of amounts due from related parties balance of Kes.3,911,771,000. Review of the financial records revealed unsupported adjustments of Kes.143,123,044 and Kes.1,169,443,245 in respect of advance payments and litigation costs receivables respectively. Further, included in the trade receivables are balances of Kes.1,630,895,645, Kes.3,392,580,798 and Kes.1,008,597,136 in respect of advance payment, litigation cost receivable and assets under construction advance payment respectively, whose supporting documents were not provided for audit. In addition, supporting schedule for trade and other receivables includes VAT input receivable of Kes.1,302,920,502 that was not supported by VAT returns duly acknowledged by

KRA. Under the circumstances, the accuracy and completeness of the receivables balance of Kes.9,726,373,000 could not be confirmed.

Management Responses:

452. According to the TB and the financial statements trade and other receivables are Kes. 9,726,373,000 as per the schedule provided. Advance payments represent sum of all advance payments paid to contractors as per contractual agreement which are to be reduced against progress payments. The opening balance was Kes. 1,944,482,973 which was reduced by Kes. 143,123,044 at the beginning of the year.

453. Litigation costs receivable of Kes. 1,169,443,245 relates to ongoing arbitration case by Inabensa against KETRACO. These costs represent administration costs that are not to be capitalized as per IAS 16 and therefore are to be expensed once the liability crystalizes. AUC advance represents internal funds that KETRACO used in construction of Olkaria Lessos Kisumu project. It is receivable from Government as the company is 100% owned by National Treasury.

Committee Observation and Recommendation

454. The Committee observed at the time of examination that advance payment represented the sum of all advance payments paid to contractors as per the contractual agreement, which were to be reduced against progress payments and Litigation costs receivable. This was related to the ongoing arbitration case and the costs represent administration costs that are not to be capitalized as per IAS 16, but are to be expensed once the liability crystalizes. Therefore, the matter stands resolved.

24.2 Amounts Due from Kenya Power and Lighting Company Limited

455. The statement of financial position and as disclosed in Note 21(a) to the financial statements reflects outstanding balances arising from services rendered to Kenya Power and Lighting Company Limited (KPLC) of Kes.5,897,754,000. However, KPLC records indicated a balance of Kes.5,546,379,000 resulting in a variance of Kes.351,375,000. In addition, there was no evidence of a payment plan from KPLC for the outstanding amounts at the end of the financial year under review.

In the circumstances, the full recoverability of the amounts due from Kenya Power and Lighting Company Limited could not be ascertained.

Management Responses

456. The Accounting Officer stated that the variance of Kes. 351,375,000 relates to withholding tax against the invoices that KPLC processed but not yet paid. Remittance of funds by KPLC during the financial year 2020/2021 was Kes. 3,133,218,529 which includes payment of pending invoices. The remittances are on a monthly basis. This has seen a reduction of receivable from Kes. 6,114,389,000 to Kes. 2,669,438,016 as at May 2025. This has resulted into a significant reduction in the provision of credit loss.

Committee Observations

457. The Committee observed at the time of examination that the amounts due from KPLC had significantly reduced from Kes. 6,114,389,000 to Kes. 2,669,438,016 since KPLC had made substantial remittance of funds to KETRACO.

Committee Recommendations

458. The Committee recommends that KETRACO should follow up on the amounts due to ensure that they are fully settled and submit a status report to the OAG on the settlement within three (3) months of adoption of this report.

25.0 Unsupported Subsistence Allowances

459. The statement of profit or loss and other comprehensive income for the year ended 30 June, 2021 reflects administration costs of Kes.1,520,724,000 which as disclosed in Note 6(a) to the financial statements includes other operating expenses amounting to Kes.141,844,983 in respect of subsistence allowances-domestic, subsistence allowance-Staff travel expense and subsistence allowances-International travel. However, the expenditure was not supported with the details of the activities, dates of the activities, approved work plans, boarding passes, copies of passports and evidence of surrender of imprests. In the circumstances, the accuracy, and propriety of the expenditure of Kes.141,844,983 on other operating expenses could not be confirmed.

Management Response

460. The Accounting Officer stated that every transaction is verified and proper controls put in place to ensure imprests are surrendered. Management ensures that all travel related expenses are supported through the system. The

expenditure totaling to Kes. 141,844,983 has been appropriately supported and documents are available in the company accounting system.

Committee Observations and Recommendations

461. The Committee observed at the time of examination that the Company had an accounting system that verified transactions and that the imprests had been surrendered hence the matter stands resolved.

26.0 Unaccounted for Grants

462. The statement of financial position and as disclosed in Note 21(c)(ii) to the financial statements reflects recurrent grants of Kes.6,816,300,000 received from the Ministry of Energy. However, Management did not provide documents to support how grants amounting to Kes.3,407,118173 were accounted for. Further, review of the financial records revealed that the Nanyuki-Isiolo-Meru project was allocated an amount of Kes.100,000,000 during the year under review but only amount of Kes.59,429,226 was incurred. However, records provided for audit indicated that the project was completed in the year 2014. Management did not explain why the project was allocated funds, yet it had been completed. In addition, it was noted that an amount of Kes.2,2522,000 was disbursed to four (4) projects that had no activities and the funds could not be accounted for. In the circumstances, the accuracy of expenditure on recurrent grants of Kes.3,407,118,173 could not be confirmed.

Management Responses

463. The Nanyuki-Isiolo-Meru is still ongoing however in 2014 the phase 1 had been completed. The development grants 6,816,300,000 were distributed to the various projects.

Committee Observations

464. The Committee observed at the time of examination that the grants were distributed to the various projects. However, the Nanyuki-Isiolo-Meru project was ongoing, which was the reason why funds were allocated.

465. The Committee further observed that an incomplete section of 800 metres was pending completion due to a dispute with the land owner despite compensation.

Committee Recommendations

466. The Committee reprimands the Accounting Officer for the incomplete 800 meters section despite having compensated the land owner and directs that the section should be completed and a status report submitted to the OAG for verification within three (3) months upon adoption of this report.

27.0 Unsupported Expenditure

467. The statement of financial position and as disclosed in Note 13 to the financial statements reflects an amount of Kes.2,696,820,000 in respect of transfer from works in progress for construction of transmission lines. Included in the balance is an amount of Kes.701,416,727 that was incurred on construction of the Loyangalani-Suswa transmission line. However, the expenditure was not supported with a certificate of completion and commissioning. In the circumstances, validity of the expenditure of Kes.701,416,727 for construction of transmission lines could not be confirmed.

Management Responses

468. Loiyangalani-Suswa line was completed, and certificate of completion and commissioning issued. Kes. 701,416,727 relates to payment of pending bills.

Committee Observations and Recommendations

469. The Committee recommends that since at the time of examination the Loiyangalani-Suswa line was completed and certificate of completion and commissioning issued, the matter stands resolved.

28.0 Pending Way-Leave Compensations

470. Review of way-leave compensations revealed that the Company had outstanding compensation to landowners for way-leaves amounting to Kes.2,724,649,715. However, Management explained that delayed payment was due to insufficient budgetary allocation from The National Treasury and long negotiations between land owners, the Company and various County Governments. Delays in compensating Project Affected Persons, (PAPs) may lead to legal suits, cost escalations and project delays. Further, it was noted that the way-leave compensation balance includes debit balances of Kes.11,940,000 which has been occasioned by a mismatch of invoices against the corresponding payable balance. Management indicates that the matching is an ongoing process but does not indicate the controls put in place to ensure that the errors are eradicated in future. In the circumstances, the

accuracy and completeness of the pending way-leave compensations could not be confirmed.

Management Response

471. The Accounting Officer stated that the amount Kes.11,940,000 as debit balance in wayleave have since been matched. Currently management ensures proper internal reviews are carried out to ensure invoices are matched with corresponding payables.

Long outstanding wayleave balances are occasioned by:

- Insufficient budget allocation,
- Incomplete documentation and disputes on the Payee.
- In some cases, this involves litigation which takes a longer time to resolve.

472. The company continues to received exchequer support from the Government of Kenya to facilitate payment of pending wayleave. Payment of outstanding wayleaves is based on available budget. The company is collaborating with other government agencies to resolve disputes relating to wayleave compensation. Wayleave balance as at May 2025 has reduced to Kes. 1,434,958,319.

Committee Observations

473. The Committee observed at the time of examination that—

i) there was a significant reduction of the outstanding compensation amounts from Kes.3,051,321,123 to Kes.1,434,958,319, since the management had made efforts to compensate the landowners. However, some long-standing wayleave compensation cases remained pending; and

ii) two transmission lines serving the Western Region of the country; the Ndhiwa–Sondu line and the Narok–Bomet line, had experienced challenges related to wayleave compensation, resulting in delays in project completion.

Committee Recommendations

474. The Committee recommends that the Company should expedite the compensation of the landowners to avoid lawsuits by the landowners and submit a report on the status of compensation to the OAG within three (3) months of adoption of this report.

475. The Committee recommends that where the projects are donor funded, the wayleave compensation costs should be included as part of the project cost.

476. Further, the Committee recommends that KETRACO should ensure it undertakes resource mobilisation of wayleave compensations before undertaking the projects.

Emphasis of Matter

29.0 Provisions and Contingent Liabilities

477. I draw attention to Note 29(a&b) to the financial statements which discloses that the Company's estimated contingent liabilities consist of ongoing court cases relating to acquisition of wayleaves and contractors' claims beyond the original contract period, amounting to Kes.6,723,093,000. According to Management, the status of these exposures is evaluated on a regular basis to assess the probability of incurring related liabilities. However, in the event that these contingent liabilities crystalize, the Company may be exposed to unforeseen project cost overruns, resulting to inability to meet its obligations when they fall due. This may affect service delivery capacity of the Company.

Management Response

478. The Accounting Officer stated that the provisions and contingent liabilities are continuously evaluated by management to assess basis of crystalizing. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Kes. 102,165,144.20. However, KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding the High Court ruling. The Court of appeal ruling was subjected to an appeal petition at the Supreme Court. The Supreme Court delivered their ruling upholding the Court of appeal ruling.

In the meantime, the Company requested the National Treasury through Ministry of Energy for the financing of the project on 20th August 2020 which has not been responded to.

Committee Observations

479. The Committee observed at the time of examination that—

i) the Supreme Court case challenging the arbitral award in the arbitration case between KETRACO and *Instalaciones Inabensa S* relating to the Lessos- Tororo transmission line was concluded and the arbitral award of 37 million Euros was upheld against KETRACO;

ii) at the time of termination of the contract, the works were at 51% and the cause of termination of the contract was due to abandoning of the site by the contractor. The Committee noted that the challenge of wayleave acquisition by KETRACO had led to the abandoning of site by the contractor;

iii) the management of KETRACO was negotiating to settle the arbitral award and was liaising with the relevant ministries to first settle the principal award amounting to 31 million Euros and discussing the waiving of the interest on the arbitral award; and

iv) the Committee observed that the project had delayed and the value for money and benefits of the transmission line had not been realized.

Committee Recommendations

480. The Committee recommends that KETRACO should henceforth ensure that it acquires the wayleave rights before entering into contracts when implementing projects to avoid litigation.

30.0 Material Uncertainty Relating to Going Concern

481. I draw your attention to the statement of financial position at 30 June, 2021 which indicated the company's current liabilities balance of Kes.27,479,514,000 exceeded current assets balance of Kes.21,655,789,000 by an amount of Kes.5,823,725,000. In view of the negative working capital, the Company may not be in a position to meet its short-term maturing obligations, thereby exposing it to going concern risks.

Management Responses

482. The Accounting Officer stated that the company's liabilities are largely funded by Government grants which arise from project implementation. The company current liabilities consist of contractual payments payable through direct payment mode where contractor receives funds directly from the financier. Therefore, the obligations are matched with commitments under the finance agreements.

Committee Observation and Recommendation

483. The Committee observed that the company's liabilities are largely funded by Government grants which arise from project implementation and the obligations are matched with commitments under the finance agreements, hence the matter stands resolved.

31.0 Court Award on Terminated Contract

484. During the year under audit, an arbitration case between the Company and a contractor for the termination of contract for the construction of 132KM of 400KV double circuit transmission line from Lessos substation in Kenya to Tororo substation in Uganda has remained unresolved since April, 2016. The tribunal issued an award in favour of the contractor on 30 July, 2019 amounting to Euro 37,365,691 or approximately Kes.4.5 billion, which included termination costs, legal cost and other claims amounting to Kes.2,223,137,553. Management considered the decision to be against public interest and sought assistance from Attorney General's office in setting aside the Tribunal's award. However, the award was upheld by the High Court of Kenya on 16 February, 2020. Further, it was not possible to confirm whether the project would be completed in the near future, and the additional costs which would be necessary to complete the project, or the losses which the Government of Kenya would suffer in the event that the project is not completed. In the circumstances, the award has resulted to unforeseen legal and arbitration costs, termination charges, and other claims.

Management Response

485. The Accounting Officer stated that the contracts with the main contractor (*Inabensa*) for the project were terminated in April 2016 due to non-performance. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Kes. 102,165,144.20. However, KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding the High Court ruling. The Court of appeal ruling was subjected to an appeal petition at the Supreme Court. The Supreme Court delivered their ruling upholding the Court of appeal ruling. In the meantime, the Company requested the National Treasury through

Ministry of Energy for the financing of the project on 20th August 2020 which has not been responded to.

Committee Observations

486. The Committee observed at the time of examination that—

i) the Supreme Court case challenging the arbitral award in the arbitration case between KETRACO and Instalaciones Inabensa S relating to the Lessos- Tororo transmission line was concluded and the award of 37 million Euros was upheld against KETRACO;

ii) at the time of termination of the contract, the works were at 51% and the cause of termination of the contract was due to abandoning of the site by the contractor. The Committee noted that the challenge of wayleave acquisition by KETRACO had led to the abandoning of site by the contractor;

iii) the management of KETRACO was negotiating to settle the arbitral award and was liaising with the relevant ministries to first settle the principal award amounting to 31 million Euros and discussing the waiving of the interest amount; and

iv) The Committee observed that the project had delayed and the value for money and benefits of the transmission line had not been realized.

Committee Recommendation

487. The Committee recommends that KETRACO should henceforth ensure that it acquires the wayleave rights before entering into contracts when implementing projects to litigation.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

32.0 Construction of Loyangalani - Suswa Transmission Interconnector Line

488. In the special audit concluded in April 2021 a number of issues were raised in the procurement and execution of the above contract as indicated below:

i) Management did not undertake both technical and financial due diligence as provided under Section 68(1) PPDA Act 2015 leading to irregular payment of Kes.10,827,072 to a Contractor which subsequently filed a petition for bankruptcy.

ii) After bankruptcy of the original Contactor, Management engaged yet another Contractor. However, the procurement was not included in the annual procurement plan and valuation of the pending works for the purposes of preparing the bills of quantities was not provided for audit.

iii) Engagement of subcontractors at a cost of Kes.1,524,059,296 which was not accompanied with certificates of completion.

iv) Acquisition of materials from the subcontractors at a cost of Kes.26,220.329 without a valuation report and subsequently taking them on charge.

In the circumstances, Management was in breach of law and value for money could not be confirmed.

Management Responses

489. The Accounting officer stated that the Project was completed in September 2018, a Completion certificate and Take Over certificate issued to the contractors of the Transmission Line, Consortium of NARI Group Corporation and Power China Guizhou Engineering Company Limited and contractor of the Loiyangalani Substation, SIEMENS SAS France. The contractor was tied to the financing, though procurement process of the contractor was done by KPLC and Ministry of Energy, KETRACO had conducted due diligence and satisfied itself of the financial and technical ability of the contractor before they suffered the insolvency in August 2017.

Committee Observations and Recommendation

490. The Committee observed at the time of examination that—

i) the procurement of the new contractor was undertaken by KPLC and the Ministry of Energy and Petroleum;
ii) that KETRACO had undertaken due diligence on the contractor before the contractor suffered insolvency; and
iii) the project was completed and a completion certificate was issued;

Therefore, the matter stands resolved.

33.0 Payments made for terminated and stalled projects

491. Review of the project status report indicated that an amount of Kes.3,976,801,443 had been paid to a contactor in respect of Bomet-Sotik,

Mwingi-Kitui-Wote-Sultan Hamud, Nanyuki-Nyahururu and Olkaria transmission lines for contracts that have since been terminated while an amount of Kes.8,714,632,590 was incurred on construction of the Lessos-Tororo-Transmission line which had stalled. Management has not explained the reasons for the termination and measures instituted to recover the payments made to the contractors. In the circumstances, it was not possible to confirm whether value for money was obtained on the expenditure of Kes.12,691,434,033 on the four (4) transmission lines.

Management Responses

492. The Accounting Officer stated that the payments made to Jyoti Structures Limited and Inabensa were for works already undertaken and materials supplied. All the invoices certified for payment are available. The contractor (China CAMCE) who took over the works is continuing with works from where Jyoti Structures Limited stopped. Value for Money was obtained under Kenya Power Transmission System Improvement Project. JYOTI STRUCTURES LIMITED contract was terminated due to Bankruptcy on the contractor. Payments made to Jyoti Structures Limited were for works already undertaken and materials supplied. KETRACO has all the invoices certified for payment therefore there was no loss. The contractor (China CAMCE) who took over is continuing with works from where Jyoti Structures Limited had stopped. KETRACO liquidated performance guarantee amounting to Kes. 409,486,412.50 issued by Jyoti Structures Limited.
493. LESSOS-TORORO: -The contracts with the main contractor (Inabensa) for the project were terminated in April 2016 due to non-performance. An arbitration tribunal was instituted in 2019.The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Kes. 102,165,144.20 in favour of the contractor. KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding the High Court ruling. The Court of appeal ruling was subjected to an appeal petition at the Supreme Court. The Supreme Court delivered their ruling upholding the Court of appeal ruling.
494. The actual total paid up amount in relation to the project was Kes. 5,008,154,385 as at 30.6.2021. The amount of Kes 8,714,632,590 consists of unpaid amounts in relation to arbitral award Kes. 2,270,789,283, Pending payables of Kes. 1,493,912,959. The paid-up amount was based on works and

services rendered at the time of termination hence no need to recover the amounts from the contractor. At the time of termination KETRACO recalled performance guarantee amounting to Kes. 134,258,399.40

Committee Observations

495. The Committee observed from the explanation of the Accounting Officer at the time of examination that—

i) KETRACO liquidated the performance guarantee amounting to Kes. 409,486,412.50 issued by Jyoti Structures Limited and the contractor (China CAMCE) who took over the works is continuing with works from where Jyoti Structures Limited stopped hence value for money was obtained under Kenya Power Transmission System Improvement Project;

ii) China CAMCE was able to complete the project and a completion certificate was issued;

iii) with regards to the Lessos-Tororo transmission, the project was a subject of an arbitration case. The arbitral award granted is yet to be settled hence the project has stalled.

Committee Recommendation

496. The Committee recommends that KETRACO should henceforth ensure that it acquires the wayleave rights before entering into contracts when implementing projects to avoid litigation.

34.0 Non-Compliance with Loan Novation Agreement

497. As previously reported, loan liability on the construction of the Kamburu-Meru transmission line was transferred from Kenya Power and Lighting Company (KPLC) to Kenya Electricity Transmission Company (KETRACO), on 19 October, 2016. According to the novation agreement, KETRACO was required to make bi-annual payments to the Government of Kenya (GoK) on account of outstanding interest at a rate of 2.5% per annum. However, the Company had not made any payments to the Government, as stipulated in the novation agreement. Management has indicated that a moratorium for twenty-four (24) months had been sought from The National Treasury but the matter was yet to be considered by the National Treasury. In the circumstances, Management was in breach of the law.

Management Responses

498. The Accounting Officer stated that in FY 2019/2020 Ministry of Energy formed a Task Force to address energy sector emerging issues.

From the Task Force report, the implementing agencies in the energy sector were to be given a moratorium on repayment of government on lent loans for 24 months. The loan mentioned above was part of the loans to be considered for the moratorium. However, a moratorium was not given for the loan in question. The company has engaged EPRA to consider additional tariff allocation to be utilized in repaying the loan.

Committee Observations

499. The Committee observed at the time of examination that—

i) KETRACO had requested EPRA to approve an additional tariff allocation that was to be utilized in repaying, however EPRA had not responded to the request.

ii) there was a tariff reduction in the prior years that has affected loan repayment; and

iii) the management has so far repaid Kes. 288,458,384.00.

Committee Recommendation

500. The Committee recommends that since the loan is still outstanding, the matter remains unresolved.

35.0 Income from Disposal of Motor Vehicles

501. Note 5 to the financial statements reflects income from disposal of motor-vehicles of amounting to Kes.20,025,000. However, the disposal was not supported with an approved disposal plan, minutes of asset disposal committee, a technical report to support the disposal of the assets and the reserve price as required by Regulations 176 and 177 of the Public Procurement and Asset Disposal Regulations, 2020. In the circumstance, Management was in breach of the law.

Management Response

502. The Accounting Officer stated that the disposal of the motor vehicles was as per the approved disposal plan, minutes of asset disposal committee, technical report to support the disposal of assets and reserve price as required under the law.

Committee Observations and Recommendation

503. The Committee observed that the disposal of the motor vehicle was done as per the approved disposal plan hence, the matter stands resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

36.0 Weak Information Technology Internal Controls

504. Review of the KETRACO financial information system revealed some internal control weaknesses, which could result to unauthorized access and manipulation of the entity's financial data, thus negatively impacting on the data integrity. It was noted that password parameters in relation to password complexity and account lockout duration have not been appropriately defined. In the circumstances, the effectiveness of the ICT infrastructure could not be confirmed.

Management Response:

505. Account lockout duration reverted to 5 minutes as per the corporate policy document. Password Policy complexity is available.

Committee Observations and Recommendations

506. The Committee observed that the password policy complexity was available and the account lock duration reverted as per the policy document. Therefore, the matter stands resolved.

FINANCIAL YEAR 2021/2022

37.0 Deferred Grant Income

507. The statement of financial position reflects total deferred grant income of Kes.197,746,409,000 which, as disclosed in Note 20 to the financial statements comprise of Kes.74,110,351,000 and Kes.123,636,058,000 in respect of direct and indirect grants respectively. Review of records revealed that the Company received an amount of Kes.10,222,033,000 from the Ministry of Energy. However, records from the Ministry reflected an amount of Kes.8,708,753,195 resulting to

an unexplained variance of Kes.1,513,279,805. Further, the statements of profit or loss and other comprehensive income reflects amortized grant from Government income amounting to Kes.2,367,166,000 which differs with the current grant amortization reported in the previous year as grant income to be amortized over 12 months of Kes.2,192,104,000 resulting to an unexplained variance of Kes.175,062,000. In the circumstances, the accuracy of grants receipts and amortized grant income thereof could not be confirmed.

Management Response

508. The Accounting Officer stated that the total grant addition was 10,222,033,000 comprising of Exchequer Development 4,549,000,000 and Development partner support 5,673,033,000 as per note 20 of the financial statements. The outstanding direct component of Kes. 74,110,351,000 would be amortized over 61 years, and 123,636,058,000 would take 119 years to be amortized is incorrect, because under the IAS 20(Accounting for Government Grants and Disclosure of Government Assistance), and the company policy, the grants are recognized as deferred income and amortized over the useful life of capitalised assets, which is 40 years. These therefore excludes grants relating to assets under construction. Under Note 13, Property and Equipment, the value of capitalised assets that qualify for grant amortization is Kes. 112,611,783,264 which has been used as a basis for grant amortization, See schedule on grant amortization.

509. Computation of deferred grant income only takes into account projects that have been capitalized as per IAS 20. It is expected that deferred grant income will keep on changing due to changes in assets value. The amortisation year by year is based on the closing balances of the Assets financed by the deferred grant income.

Committee Observation and Recommendation

510. The Committee observed at the time of examination that computation of deferred grant income had been undertaken on projects that had been capitalized. Therefore, the matter stands resolved.

38.0 Unsupported Capital Work in Progress

511. The statement of financial position and Note 13 to the financial statements reflects an amount of Kes.103,300,323,000 in respect of capital work in progress.

Included in the balance, is an amount of Kes.694,724,780 and Kes.363,758,780 in respect of accrued ongoing litigations and audit journal respectively which were not supported and did not relate to work in progress. Further, the balance includes an amount of Kes.198,432,566 in respect of feasibility studies for thirty-three (33) projects which have been outstanding from the year 2012. Management did not explain when the projects were likely to be implemented. In the circumstances, the Company may not have obtained value for money on the expenditure of Kes.198,432,566 on feasibility studies and the accuracy and completeness of the capital work in progress balance of Kes.103,300,323,000 could not be confirmed.

Management Response

512. The Accounting Officer stated that Kes. 694,724,780 and Kes. 363,758,780 included as part of work in progress was a provision in relation to ongoing cases against the company that have a high likelihood of crystalizing. These ongoing cases mainly relates to implementation of the projects and if they crystalize, cost of ongoing projects would most likely go up. Feasibility studies of Kes. 198,432,566 represents projects that are planned to be implemented by the company as per the transmission master plan. The costs relating to feasibility studies will form part of project costs once the projects are implemented.

Committee Observations

513. The Committee observed from the explanation of the Accounting Officer at the time of examination that, although some components of some projects were complete, some were still pending hence the projects had not been capitalised.

Committee Recommendations

514. The Committee recommends that the management should fast track completion of the pending projects so that the projects can be capitalised.

515. Additionally, the Committee directs the Accounting Officer to submit the status report of the pending projects to the OAG for verification within three (3) months upon adoption of the Report.

39.0 Unsupported Trade and Other Payables

516. The statement of financial position reflects trade and other payables balance of Kes.18,879,150,000. However, the detailed payables ageing analysis

to support the balance was not provided for audit. Further, the balance includes VAT payable output tax amounting to Kes.1,319,369,974 that was not supported by VAT returns duly acknowledged by Kenya Revenue Authority. In the circumstances, the accuracy and completeness of the trade and other payables balance of Kes.18,879,150,000 could not be confirmed.

Management Responses

517. The Accounting Officer stated that the amount of VAT receivable (Input VAT) of Kes.1,368,924,997.06 is the cumulative VAT amount relating to vatable purchases since inception. Input VAT is declared and offset against VAT payable (Output VAT) monthly through the monthly VAT return. The amount declared in the VAT return for June 2022 was a payable amount of Kes.23,833,601.23 while the difference between input VAT and output VAT as at 30 June 2022 was a receivable amount of Kes.49,555,023.45. Journals have since been passed to offset Input VAT and Output VAT.

Committee Observations and Recommendations

518. The Committee observed at the time of examination that a reconciliation on the VAT payable account had been undertaken hence the matter stands resolved.

40.0 Undisclosed Amounts Due to Kenya Electricity Generating Company Limited

519. The statement of financial position reflects trade and other payables of Kes.18,879,150,000. However, the amount excludes a balance of Kes.4,481,056,467 in respect of transmission lines that were done during the financial year 2008/2009 or earlier by Kenya Electricity Generating Company (KenGen) and which are used in the furtherance of Company's business for revenue generation. In addition, although the Company continues to generate revenue from the transmission lines, there was no evidence provided to indicate that they have been included as part of the plant, property and equipment.

520. Further, the transmission lines were financed through a loan but the Company has not recognized any interest charged on this loan since the takeover of the lines. Similarly, Management of KenGen indicated that there has been on going negotiation for transfer of the assets to the Kenya Electricity Transmission Company Limited (KETRACO) which if concluded would increase the operations costs of the Company due to recognition of the accrued

interest and would also impact on the Company's cash outflows due to annual loan repayments. In the circumstances, the accuracy and completeness of the payables balance of Kes.18,879,150,000 could not be confirmed.

Management Responses

521. The Accounting Officer stated that at the time of the audit the Novation agreement had not been signed/executed thus the assets valued at Kes.4,481,056,467 in respect of transmission lines could not be included in the Company's PPE. The Olkaria I and IV transmission line was implemented by KenGen through loan financing and was to be transferred to KETRACO upon completion of novation agreement. The novation agreement was signed on 29th August 2024 and the Government through National Treasury undertook to settle the project costs on behalf of KETRACO.

Committee Observations and Recommendations

522. The Committee observed at the time of examination that the novation agreement between KENGEN and KETRACO had been signed and the Government through the National Treasury undertook to settle the project costs on behalf of KETRACO. Therefore, the matter stands resolved.

41.0 Unsupported Trade and Other Receivables

523. The statement of financial position reflects trade and other receivables of Kes.14,104,591,000 which includes other receivables of Kes.8,246,191,000. However, review of the financial records revealed unsupported adjustments of Kes.1,008,597,137,000 and Kes.3,684,674,261,000 in respect of advance payments and litigation costs receivables respectively. The other receivables balance was also adjusted by an amount of Kes.2,961,642,928 whose details were not provided for audit. Further, included in the other trade receivables are balances of Kes.2,807,940,909 and Kes.1,618,253,176 in respect of down payments and advance payments respectively, whose supporting documents were not provided for audit. In addition, supporting schedule for trade and other receivables includes VAT input receivable of Kes.1,368,925,000 that was not supported by VAT returns duly acknowledged by KRA. Similarly, details to support payments to staff amounting to Kes.12,542,886 were also not provided for audit. In the circumstances, the accuracy and completeness of the receivables balance of Kes.14,104,591,000 could not be confirmed.

Management Responses:

524. The Accounting Officer stated that according to the TB and the financial statements trade and other receivables are Kes. 14,104,591,000 as per the schedule provided. AUC advance of Kes. 1,008,597,137,000 represents own source funding used to for construction of Olkaria Lessos Kisumu project. It represents a GOK reimbursement by the National Treasury. Litigation costs receivable of Kes. 3,684,674,261,000 relates to ongoing arbitration case by Inabensa against KETRACO. The presumption is that in the event the company has to settle Inabensa liabilities the GOK will provide budgetary support. These costs represent administration costs that are not to be capitalized as per IAS 16 and therefore are to be expensed once the liability crystalizes.

525. Advance payment of Kes. 2,807,940,909 was paid in the financial year and Kes.1,618,253,176 represent sum of all advance payments paid to contractors as per contractual agreement which are to be reduced against progress payments. The VAT receivable amount of Kes.1,368,924,997.06 is the cumulative VAT on purchases which was captured over the years in the SAP system under the VAT input account. This amount has been declared through the monthly VAT returns. The schedule and details of the VAT input amount is included in the i-Tax return. During the filing of the VAT returns, input VAT is offset against the output VAT. VAT receivable (VAT input) amount was held in a separate account in the SAP system hence the cumulative amount. However, journals have been passed to offset the cumulative amount in VAT input against the cumulative VAT output amount and a reconciliation of the net balance in the VAT receivable account provided Acknowledged VAT 3 return.

Committee Observations and Recommendation

526. The committee observed at the time of examination that—

i) advance payment represented the sum of all advance payments paid to contractors as per the contractual agreement, which are to be reduced against progress payments and Litigation costs receivable. This was related to the ongoing arbitration case and the costs represent administration costs that are not to be capitalized as per IAS 16 but are to be expensed once the liability crystalizes.

ii) a reconciliation on the VAT payable account had been undertaken hence the matter stands resolved.

42.0 Unsupported Right of Use of Assets

527. The statement of financial position reflects right of use of assets of Kes.206,022,000. Included in the balance is an amount of Kes.34,894,000 in respect of additional right of use of assets. However, the detailed supporting analysis of additional right acquired during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of the right of use of assets balance of Kes.34,894,000 could not be confirmed.

Management Responses:

528. The Accounting Officer stated that the right to use asset relates to leases that the company has contracted with various vendors. An increase in right of use indicates a new lease entered into as per the computation schedule and lease agreement.

Committee Observation and Recommendation

529. The Committee observed that KETRACO had obtained leases from various vendors, hence the matter is resolved.

43.0 Amounts Due from Kenya Power and Lighting Company Limited

530. The statement of financial position and as disclosed in Note 21(a) to the financial statements reflects outstanding balances arising from services rendered to Kenya Power and Lighting Company Limited (KPLC) of Kes.4,643,480,000. However, KPLC records indicated a balance of Kes.4,567,868,000 resulting in an unexplained variance of Kes.75,612,000. In addition, there was no evidence of a payment plan from KPLC for the outstanding amounts at the end of the financial year under review. In the circumstances, the full recoverability of the amounts due from Kenya Power and Lighting Company Limited could not be confirmed.

Management Responses

531. The Accounting Officer stated that the variance of Kes. 75,612,000 relates to withholding tax against the invoices that KPLC processed but not yet paid. Remittance of funds by KPLC during the financial year 2021/2022 was Kes. 4,781,361,429 which includes payment of pending invoices. The remittances are on a monthly basis. This has seen a reduction of receivable to Kes. 2,308,924,370.00 as at February 2026.

Committee Observations

532. The Committee observed at the time of examination that the amounts due from KPLC had significantly reduced from Kes.6,114,389,000 to Kes. 2,669,438,016 since KPLC had made substantial remittance of funds to KETRACO.

Committee Recommendations

533. The Committee recommends that KETRACO should follow up on the amounts due to ensure that they are fully settled and submit a report on the status report on the settlement within three (3) months of adoption of this report.

44.0 Pending Wayleave Compensations

534. Records of wayleave compensations provided for audit revealed that the Company had outstanding compensation to landowners for wayleaves amounting to Kes.2,301,516,336. However, Management explained that delayed payment was due to insufficient budgetary allocation from The National Treasury and long negotiations between land owners, the Company and various County Governments. In the circumstances, delays in compensating Project Affected Persons, (PAPs) may lead to legal suits, cost escalations and project delays. In addition, the accuracy and completeness of the pending wayleave compensations could not be confirmed.

Management Response

535. The Accounting Officer stated that the long outstanding wayleave balances are occasioned by:

- Insufficient budget allocation,
- Incomplete documentation and disputes on land ownership.
- In some cases, this involves litigation which takes a longer time to resolve.

The company continues to receive exchequer support from the Government of Kenya to facilitate payment of pending wayleave. Payment of outstanding wayleaves is based on available budget. The company is collaborating with other government agencies to resolve disputes relating to wayleave compensation.

Committee Observations

536. The Committee observed at the time of examination that—

i) there was a significant reduction of the outstanding compensation amounts from Kes.3,051,321,123 to Kes.1,434,958,319, since the management had made efforts to compensate the landowners. However, some long-standing wayleave compensation cases remained pending; and
ii) two transmission lines serving the Western Region of the country; the Ndhiwa–Sondu line and the Narok–Bomet line, had experienced challenges related to wayleave compensation, resulting in delays in project completion.

Committee Recommendations

537. The Committee recommends that the Company should expedite the compensation of the landowners to avoid lawsuits by the landowners and submit a report on the status of compensation to the OAG within three (3) months of adoption of this report.

538. The Committee recommends that where the projects are donor funded, the wayleave compensation costs should be included as part of the project cost.

539. Further, the Committee recommends that KETRACO should ensure it undertakes resource mobilisation of wayleave compensations before undertaking the projects.

45.0 Amount Due to Kenya Power Lighting Company

540. The statement of financial position and as disclosed in Note 21(b) to the financial statements reflects payables to related party of Kes.1,539,804,000 in respect of Kenya Power and Lighting Company Limited (KPLC). However, KPLC records indicated a balance of Kes.1,677,814,000 resulting in an unexplained variance of Kes.138,010,000. In the circumstances, the accuracy and completeness of payables to related party of Kes.1,539,804,000 could not be confirmed.

Management Response

541. The amount disclosed under related parties consists of obligations that were transferred to KETRACO after signing of novation agreements relating to Kamburu, Meru and Chemosit, Kisii. In addition, operations and maintenance costs for relating to services offered by KPLC before KETRACO took over O&M activities are also included. KETRACO & KPLC team continuously reconcile &

match their related party balances to ensure that they match each other statements at any given time.

Committee Observations

542. The Committee observed at the time of examination that—

i) the variance arose as a result of the undocumented invoices by KPLC after the novation agreement;

ii) although KPLC has provided invoices for some of the amounts, it is yet to provide invoices for the full amount in the variance.

Committee Recommendations

543. The Committee recommends that KETRACO should expedite reconciliation of the accounts with KPLC and submit a report on the status of the variance within three (3) months of adoption of this report.

46.0 Non-Recognition of Power Tariff Reduction Contribution

544. During the year under review, a Presidential Directive was issued to the Energy Sector to implement a 15% tariff reduction for all customer categories, which was implemented through Gazette Notice No.64 dated 7 January, 2022. According to the framework agreed between the Ministry of Energy and Semi-Autonomous Agencies (SAGAs) in the electricity sub-sector, the SAGAs in the electricity supply chain comprising The Kenya Power and Lighting Company PLC (KPLC), Kenya Electricity Generation Company PLC (KenGen), Kenya Electricity Transmission Company Limited (KETRACO), and Geothermal Development Company Limited (GDC), were each to contribute through cost reduction initiatives to supplement Government support.

545. The Kenya Power and Lighting Company PLC (KPLC) who would in turn transfer the benefits to consumers. KPLC implemented the tariff reduction from January, 2022 in line with the directive. However, Management of KETRACO did not implement the cost reduction of Kes.500 million as per the commitments, which implies that the reported revenues are overstated by Kes.250 million which would have been the Company's contribution due to the Kenya Power and Lighting Company PLC which has already implemented the full reduction on behalf of other Energy Sector players. In the circumstances, the accuracy of the reported revenues could not be confirmed and Management was in breach of the Presidential directive.

Management Response

546. Tariff reduction was for the calendar year from January 2022 to December 2022 as a result the financial statements 2021/2022 were restated by Kes.250 million to reflect the tariff.

Committee Observation and Recommendation

547. The Committee observed at the time of examination that the tariff reduction was restated in FY 2021/2022 hence the matter is resolved.

Emphasis of matter

47.0 Provisions and Contingent Liabilities

548. I draw attention to Note 29(a&b) to the financial statements which discloses that the Company's estimated contingent liabilities consist of ongoing court cases relating to acquisition of wayleaves and contractors' claims beyond the original contract period, amounting to Kes.7,259,452,000. According to Management, the status of these exposures is evaluated on a regular basis to assess the probability of incurring related liabilities. However, in the event that these contingent liabilities crystalize, the Company may be exposed to unforeseen project cost overruns, resulting to inability to meet its obligations when they fall due. This may affect service delivery capacity of the Company.

Management Response

549. The Accounting Officer stated that the provisions and contingent liabilities are continuously updated by management to assess basis of crystalizing. In accordance to the applicable financial reporting standards, IAS 37(Provisions, contingent liabilities and contingent Assets), the contingent liability have been disclosed on the notes to the financial statements. The significant contribution is the Arbitral award case relating to the termination of the contractor of Interconnection of Electric Grids of Nile Equatorial lakes countries (Kenyan Parts) Kenya- Uganda Lot A 400kV Lessos Tororo project. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Kes. 102,165,144.20. However, KETRACO appealed up to the Supreme Court. The Supreme Court delivered their ruling upholding the arbitral award.

550. The Company requested the National Treasury through Ministry of Energy for the financing of the project on 20th August 2020 which has not been responded to. In the meantime, the negotiations to settle the arbitral award has commenced and is being spearheaded by a multisectoral committee

members from EPRA, KETRACO, MoE, National Treasury and Attorney General Office.

Committee Observations

551. The Committee observed at the time of examination that—

i) The Supreme Court case challenging the arbitral award in the arbitration case between KETRACO and Instalaciones Inabensa S relating to the Lessos-Tororo transmission line was concluded and the arbitral award of 37 million Euros was upheld against KETRACO;

ii) at the time of termination of the contract, the works were at 51% and the cause of termination of the contract was due to abandoning of the site by the contractor. The Committee noted that the challenge of wayleave acquisition by KETRACO had led to the abandoning of site by the contractor;

iii) the management of KETRACO was negotiating to settle the arbitral award and was liaising with the National Treasury and the Ministry of Energy and Petroleum, to first settle the principal award amounting to 31 million Euros and discussing the waiving of the interest on the arbitral award; and

iv) the Committee observed that the project had delayed and the value for money and benefits of the transmission line had not been realized.

Committee Recommendation

552. The Committee recommends that KETRACO should henceforth ensure that it acquires the wayleave rights before entering into contracts when implementing projects to avoid litigations in the future.

48.0 Material Uncertainty Relating to Going Concern

553. I draw your attention to the statement of financial position at 30 June, 2022 which indicates that the Company's current liabilities balance of Kes.28,966,438,000 exceeded current assets balance of Kes.24,443,226,000 by an amount of Kes.4,423,212,000. In view of the negative working capital, the Company may not be in a position to meet its short-term maturing obligations, thereby exposing it to going concern risks.

Management Response

554. The company's liabilities are largely funded by Government grants which arise from project implementation. The company current liabilities consist of contractual payments payable through direct payment mode where

contractor receives funds directly from the financier. Therefore, the obligations are matched with commitments under the finance agreements. In addition the company has made full disclosure of the going concern status as disclosed in note 33 to the financial statements.

Committee Observation and Recommendation

555. The Committee observed that the company's liabilities are largely funded by Government grants which arise from project implementation and the obligations are matched with commitments under the finance agreements, the matter stands resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

49.0 Payments Made for Terminated and Stalled Projects

556. As previously reported, the project status report indicated that an amount of Kes.3,976,801,443 had been paid to a contactor in respect of Bomet-Sotik, Mwingi-Kitui-Wote-Sultan Hamud, Nanyuki-Nyahururu and Olkaria transmission lines for contracts that have since been terminated while an amount of Kes.8,714,632,590 was incurred on construction of the Lessos-Tororo-Transmission line which had stalled. Management has not explained the reasons for the termination and measures instituted to recover the payments made to the contractors. In the circumstances, it was not possible to confirm whether value for money was obtained on the expenditure of Kes.12,691,434,033 on the four (4) transmission lines.

Management Response:

557. The composition of 12,691,433,033 is made up of Kes.8,714,632,590 incurred on construction of the Lessos-Tororo-Transmission line as 30.6.2 and Kes.3,976,801,443 paid to M/s. Jyoti Structures Ltd in respect of Kenya Power Transmission System Improvement Project (KPTSIP) comprising of; Bomet-Sotik, Mwingi-Kitui-Wote-Sultan Hamud, Nanyuki-Nyahururu and Olkaria transmission lines. Payments of Kes.3,976,801,443 made to Jyoti Structures Limited were for works already undertaken and materials supplied. The contractor (China CAMCE) who took over the works is continuing with works from where Jyoti Structures Limited stopped. Value for Money was obtained under Kenya Power Transmission System Improvement Project (KPTSIP).

558. Jyoti structures Limited contract was terminated due to Bankruptcy on the contractor. KETRACO liquidated performance guarantee amounting to Kes.

409,486,412.50 issued by Jyoti Structures Limited. Value for Money was obtained under Kenya Power Transmission System Improvement Project. All the projects under KPTSIP have since been completed and commissioned. Lessos-Tororo: The actual total paid up amount in relation to the project was Kes. 5,008,154,385 as at 30.6. 2021.The amount of Kes 8,714,632,590 consists of unpaid amounts in relation to arbitral award Kes. 2,270,789,283, Pending payables of Kes. 1,493,912,959. The paid-up amount was based on works and services rendered at the time of termination hence no need to recover the amounts from the contractor. At the time of termination KETRACO recalled performance guarantee amounting to Kes. 134,258,399.40.

559. KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding the High Court ruling. The Court of appeal ruling was subjected to an appeal petition at the Supreme Court. The Supreme Court delivered their ruling upholding the Court of appeal ruling.

Committee Observations

560. The Committee observed from the explanation of the Accounting Officer at the time of examination that—

i) KETRACO liquidated the performance guarantee amounting to Kes. 409,486,412.50 issued by Jyoti Structures Limited and the contractor (China CAMCE) who took over the works is continuing with works from where Jyoti Structures Limited stopped hence value for money was obtained under Kenya Power Transmission System Improvement Project;

ii) China CAMCE was able to complete the project and a completion certificate was issued;

iii) with regards to the Lessos-Tororo transmission, the project was a subject of an arbitration case. The arbitral award granted is yet to be settled hence the project has stalled.

Committee Recommendation

561. The Committee recommends that KETRACO should henceforth ensure that it acquires the wayleave rights before entering into contracts when implementing projects to avoid litigation.

50.0 Non-Compliance with Loan Novation Agreement

562. As previously reported, loan liability on the construction of the Kamburu-Meru transmission line was transferred from Kenya Power and Lighting Company (KPLC) to Kenya Electricity Transmission Company (KETRACO), on 19 October, 2016. According to the novation agreement, KETRACO was required to make bi-annual payments to the Government of Kenya (GoK) on account of outstanding interest at a rate of 2.5% per annum. However, the Company had not made any payments to the Government, as stipulated in the novation agreement. Management indicated that a moratorium for twenty-four (24) months had been sought from The National Treasury but the matter was yet to be considered by the National Treasury. In the circumstances, Management was in breach of the law.

Management Response

563. The Accounting Officer stated that in FY 2019/2020 Ministry of Energy formed a Task Force to address energy sector emerging issues. From the Task Force report, the implementing agencies in the energy sector were to be given a moratorium on repayment of government on lent loans for 24 months. The loan mentioned above was part of the loans to be considered for the moratorium. However, a moratorium was not given for the loan in question. The company has engaged EPRA to consider additional tariff allocation to be utilized in repaying the loan. In the meantime, KETRACO has made two repayments to the National Treasury of KES. (288,458,384.00) in 30 June 2025.

Committee Observations

564. The Committee observed at the time of examination that—

i) KETRACO had requested EPRA to approve an additional tariff allocation that was to be utilized in repaying, however EPRA had not responded to the request.

ii) there was a tariff reduction in the prior years that has affected loan repayment; and

iii) the management has so far repaid Kes. 288,458,384.00.

Committee Recommendation

565. The Committee recommends that since the loan is still outstanding, the matter remains unresolved.

3.3 KENYA POWER AND LIGHTING COMPANY PLC (KPLC)

AUDIT EXAMINATION REPORT FY 2018/19 – 2022/23

FINANCIAL YEAR 2018/2019

1.0 Material Uncertainty Relating to Going Concern

566. I draw attention to Note 2(a) to the financial statements which discloses that the Company's current liabilities of Kes.115,190,801,000 exceeded its current assets of Kes.44,220,940,000 by Kes.70,969,861,000 as at 30 June, 2019 (2018: Kes.56,012,987,000). The Company has remained in a negative working capital position for the third consecutive year. As disclosed by the Board and Management in the past and current financial statements, strategic initiatives have been undertaken to improve the financial results of the Company. However, these initiatives appear not to have yielded the intended results. These conditions indicate that a material uncertainty exists, which may cast significant doubt on the Company's ability to continue as a going concern.

Management Response

567. During the period under review, the Company was experiencing working capital challenges primarily due to significant capital expenditure between 2014 and 2018, undertaken in support of the Government's universal electricity access agenda and generation expansion (5000MW+) program. Medium-term commercial borrowing was used to finance long-term infrastructure projects, thereby exacerbating the net current liability position. Furthermore, the rapid expansion of the low-voltage network contributed to increased distribution losses, resulting in reduced revenue. There were also delays in the timely review of retail electricity tariffs beyond the expiry of the control period, which led to suppressed revenue levels that could not cover the sector costs from generation to retail.

568. The Board and management undertook several key strategic initiatives to improve the financial health of the Company, these included

i) Stemming the increase in system losses during the financial year 2019/2020 and thereafter adopting a loss reduction path with a target of 0.5% annual reduction as prescribed by the regulator. This was to be achieved through various initiatives including; load balancing and

optimal dispatch of generation as well as commissioning of new feeders to de-load heavily loaded feeders.

ii) Pursue roll-over of the existing money market debt facilities to ease pressure on cash flows and facilitate scheduled repayment of other commercial and guaranteed debt.

iii) Intensify debt collection and revenue protection though realignment of resources and the use of technology by deployment of smart meters on a gradual basis. This is in addition to launching of "Know Your Meter" and "Meter inspection" campaigns to identify and resolve illegal connections, un-metered supply and faulty meters. These campaigns were carried out using internal resources including all staff participating in field days.

iv) The Company had already restricted capital spending to critical projects and encouraged capital contributions from quoted customers and expedited the connection process for mutual benefit.

v) The Company also pursued an optimal balance between generation and electricity demand by engaging the key stakeholders. At the same time, it continued to enhance demand creation initiatives by focusing on premium customers and improving supply reliability; and

vi) There was also active engagement with the Regulator (EPRA) and other stakeholders on the critical need for a cost reflective tariff including the restructure of the life-line band and review of allowed system losses to reflect the grid dynamics.

569. In addition, the Company petitioned the Government for the release of funds amounting to Kes. 11.9 billion, owed to KPLC as at 30 June 2019, for the management, operation, and maintenance of the RES network. Further, the Board and Management sort government support through the Ministry of Energy and National Treasury in enhancing sustainability of the company and sector at large. The Company obtained waivers for breach of the current ratio for the second consecutive year and was cognisant of the fact that achieving the covenanted position on the ratios may be infeasible in one year. KPLC thus initiated discussions with key lenders on a potential review of the covenants as well as seeking on-lent debt repayment moratorium to provide leverage for commercial debt restructuring discussion.

570. Despite the Company's declining performance, it continued generating positive operating cash flows which indicated that it was still able to meet most of its working capital requirements. In conclusion, the strategic initiatives implemented by the Board and Management along with interventions by the government have seen the company's financial position improve quite significantly, its working capital position has improved from a low of negative Kes. 75 billion in 2020 to negative Kes. 27 billion in 2024. They have also commenced the repayment of the GoK on-lent loans that were on a moratorium from March 2020 and reported a profit after tax of Kes. 30 billion in June 2024.

Committee Observation

571. The Committee observed that:

i) The management had made strategic changes in their operations which had greatly improved the organization's financial position;

ii) The company had generated a profit of Kes 30 billion in financial 2023/2024, thereby resulting in the lifting of the moratorium on debt repayment and dividends were paid to shareholders after a nine-year freeze; and

iii) the price of the company shares had significantly improved in the stock exchange market and there was an improvement in working capital and cash flows.

Committee Recommendation

572. The Committee recommends that the management should ensure consistency in implementation of the strategic measures to stabilise the financial position of the Company.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

2.0 Non-compliance with the Unclaimed Financial Assets Act, 2011

573. As reported in the prior year and as disclosed in Note 27 to the financial statements, the Company as at 30 June, 2019 held in their books financial assets amounting to Kes.922,000,000 (2018: Kes.1,729,000,000) under other payables of Kes.10,319,188,000 (2018: Kes.10,302,192,000). These assets include deposit refunds, unidentified receipts, unpaid customer electricity deposits, unpaid wayleaves compensation, unclaimed dividends and stale cheques, which ought to have been reported and submitted as required by the

Unclaimed Financial Assets Act, 2011. According to the Act, failure to comply attracts a penalty of 25% of the assets held, in addition to a daily penalty of between Kes.7,000 and Kes.50,000 for each day a report is late in submission. Although Management is confident that the outstanding balance will drop following an ongoing review and audit of the assets, this aspect of non-compliance may cost the Company up to Kes.1,765,000,000 in interest and penalties as at 30 June, 2019.

Management Response

574. During the period under review, the Company commissioned an extensive examination of its accounting records to accurately determine the qualifying assets held by KPLC and subject to submission to the Unclaimed Financial Assets Authority from the earliest reporting date. Following this review and measures undertaken re-unite the assets with their rightful owners, the amount of qualifying unclaimed financial assets dropped from Kes. 1.7 billion in FY 2017/2018 to Kes. 922 million in the FY 2018/2019. The Company also reached out to the Authority (UFAA) and was able to agree on a compliance path that commenced with capacity building for the KPLC team by UFA and thereafter quarterly submission to UFA in addition to the mandatory annual submission.

Committee Observation and Recommendation

575. The Committee observed that:

i) management had taken measures to ensure compliance with the Unclaimed Financial Assets Act, Cap. 494. This included capacity building of their staff at the regional level on the adherence to the law and locating the rightful owners of the unclaimed assets, which had led to a decrease in the unclaimed assets by Kes.778 million; and

ii) reconciliation is done on a monthly basis and the schedules of presumed abandoned assets remitted to UFAA on a quarterly basis.

iii) in the subsequent financial year 2022/2023, the company has complied with the requirements of the Act, hence the matter stands resolved.

3.0 Non-compliance with the Capital Markets Authority Listing Rules

576. As reported in the prior year, the First Schedule of the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002 (Amended 2016) sets out the minimum requirements for a company at the time of listing, as well as continuing obligations of the listed entity. The First Schedule provide that

the listed company must have prepared financial statements for the latest accounting period on a going concern basis and that the related audit report must not contain any qualification or emphasis of matter in this regard. Further, the Company must not be in breach of its loan covenants, particularly in regard to the maximum debt capacity and should have adequate working capital.

577. However, the Company was in breach of certain borrowing covenants ratios as at 30 June, 2019. Management however obtained from the lenders the necessary waivers before 30 June, 2019, confirming the waiver of the lenders' right to demand immediate repayment of the loan, due to the breach of borrowing covenants. In addition, the Company's current liabilities of Kes.115,190,801,000 exceeded current assets of Kes.44,220,940,000 by Kes.70,969,861,000 resulting in a negative working capital of a similar margin.

Management Response

578. During the period under review, the Company's current liabilities exceeded its current assets, resulting in a breach of the current ratio borrowing covenant. In the short term, Kenya Power obtained waivers from the lenders for this breach prior to 30 June 2019. The waiver letters confirmed that the lenders waived their rights to demand immediate repayment arising from the covenant breach for a period of at least twelve months from the date of issuance. To address the negative working capital position, the Company implemented measures outlined under the section on "Uncertainty Relating to Going Concern." These efforts have led to a significant improvement, with the negative working capital reducing from Kes. 75 billion in 2020 to Kes. 27 billion in 2024.

Committee Observation

579. The Committee observed from the submission of the Accounting Officer at the time of examination that:

i) The management had made strategic changes in their operations which had greatly improved the company's financial position with the negative working capital reducing from Kes. 75 billion in 2020 to Kes. 27 billion in 2024;

ii) The company had generated a profit of Kes 30 billion in financial 2023/2024, thereby resulting in the lifting of the moratorium on debt repayment and dividends were paid to shareholders after a nine-year freeze; and

iii) the price of the company shares had significantly improved in the stock exchange market and there was an improvement in working capital and cash flows.

Committee Recommendation

580. The Committee recommends that the management should ensure consistency in implementation of the strategic measures to stabilise the financial position of the Company.

4.0 Non-compliance with the Public Procurement and Asset Disposal Act, 2015

581. Article 227(1) of the Constitution of Kenya provides that a procuring entity shall uphold the principles of fairness, equity, transparency, competitiveness and cost effectiveness in the process of procurement of public goods and services. Further, the Public Procurement and Asset Disposal Act, 2015, Section 103(1) provides that; a procuring entity may use direct procurement as allowed under Sub-Section (2) as long as the purpose is not to avoid competition. Sub-Section (2) further provides instances where the direct procurement method may be used to include, among others, where; goods, works or services are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights and procuring entity, having procured goods, equipment, technology or services from a supplier or contractor, determines that additional supplies shall be procured from that supplier or contractor for reasons of standardization or need for compatibility with existing goods, equipment, technology or services.

582. A review of procurement processes revealed that the Company executed a contract with a local firm for the provision of creative, production and media buying services at a cost of Kes.55,890,600 in January, 2018. The services were procured through Direct Procurement contrary to Article 227 of the Constitution of Kenya and Section 103(1) of the Public Procurement and Asset Disposal Act, 2015. No justification for the direct procurement method used was availed as there existed other providers of similar services in the market and there were no exclusively held rights for them, in the case of the services procured.

Management Response

583. The accounting officer submitted that there was a request for direct procurement with justifying reasons to procure directly from the supplier of creative production and media buying services as per the professional opinion

dated 3rd October 2017. This is in accordance with section 103, 2 (d) of the Public Procurement and Asset Disposals Act 2015, where the services had been previously procured from a given supplier. The considerations made were that the agency, having been awarded the previous tender, had met all KPLC's requirement in the delivery of the services required at reasonable cost. Onboarding of the agency was to provide a stop gap measure as the recruitment of a creative, media planner and buyer resource is affected within three months.

Committee Observation and Recommendation.

584. The Committee observed from the submission of the Accounting Officer at the time of examination that:

i) the contract period was lapsing which led to the tendering;
ii) a tendering process was initiated but one of the bidders sued the company and sought for an injunction estopping the tender process;
iii) KPLC extended the contract of the previous supplier for three months as a stop gap measure as the recruitment of a creative, media planner and buyer resource was effected within three months.
iv) KPLC tendered and awarded the tender to a different supplier i.e. Transcend Media;
v) Therefore, the matter stands resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

5.0 Control Weaknesses in Information Technology

585. The Company has implemented a number of Information Technology (IT) systems for its various operations. Review of these systems revealed control weaknesses, as listed below:

(i) There was inconsistent monitoring of super-user activity for four IT applications. Activities in the applications should be monitored using three software tools at both application and database levels. However, the operating system level activities were not being monitored while three of the four main IT applications had not been configured on the monitoring tool for user activity at application and database levels. Similarly, the monitoring

tools were yet to be configured, thus individual accounts/user IDs with powerful rights layer were not being monitored.

(ii) Reports generated by the tools and data maintained by the trigger tables were not reviewed frequently and in a timely manner by Management so as to understand issues flagged and how they were responded to by the information security team. This means that unauthorized or malicious activities performed in the databases, applications and operating systems may not be detected on time.

(iii) Audit logs and audit settings were not protected from access by privileged users making such users capable of changing audit settings without authorization and enabling unauthorized changes without being held accountable.

(iv) There were inadequate logical access controls and weak passwords parameters whereby password configurations of the operating systems databases and application of in-scope applications were not set in line with the password policy.

In view of the above lapses in IT controls, it was not possible to rule out existence of weaknesses in internal control and related risks, during the year under review.

Management Response

586. The accounting officer submitted that below actions were taken by the Company to address the identified control weaknesses;

(i) There was inconsistent monitoring of super-user activity for four IT applications.

- To mitigate the Super user activities risk, the Company implemented the trigger tables and manufacturer provided tools to manage the environment. Both Solaris and Oracle Database support triggers tables were implemented

- As per the Super User activity on various server platforms, ICT systems integrate with Internal Audit monitoring tools. The company uses a very powerful Security Information and Event Monitoring (SIEM) tool provided by IBM, namely IBM QRadar. We also installed a real-time database security and monitoring application to safeguard KPLC systems using a tool called IBM Guardium. Lastly, IBM Big fix was deployed to further secure the servers.

(ii) Reports generated by the tools and data maintained by the trigger tables were not reviewed frequently and in a timely manner by the management so as to understand issues flagged and how they were responded to by the information security team.

- The Company uses manufacturer's provided tools to manage the environment. Both Solaris and Oracle Database support triggers tables were implemented.

(iii) Audit logs and audit settings were not protected from access by privileged users making such users capable of changing audit settings without authorization and enabling unauthorized changes without being held accountable.

- The DBA doubles up as the Systems Administrator. The 'AUDIT SYSTEM" & "AUDIT ANY" privileges are required to set auditing on system and non-system objects respectively. A mechanism was put in place to back up to tape the logs as they were written as a work-around. Only admin in IT security is responsible and accountable for DBA access rights.

The parameters were set as per application requirement.

- For all server on Windows environment, we deployed Microsoft Advanced Threat Analytics (ATA) tool, which is an on-premises platform that helps protect the enterprise from multiple types of advanced targeted cyber-attacks and insider threats.
- We also deployed Microsoft Defender Advanced Threat Protection (ATP), a platform designed to help enterprise networks prevent, detect, investigate, and respond to advanced threats.
- Lastly, we also had McAfee Host Intrusion Prevention (HIPS), which is an antivirus software that provides protection against malware and offers protection against OS and application vulnerabilities. HIPS protects against passwords thefts
- All Windows OS server environment changed Windows 2012 server and AD security, which support the Microsoft ATP and ATA cited above.

(iv) There were inadequate logical access controls and weak passwords parameters whereby password configurations of the operating systems databases and application of in-scope applications were not set in line with the password policy.

- The password complexity was implemented in all systems save for C&I which was not open to change by design.
- For Active Directory (AD), some service accounts, that were used by system automated background processes, were excluded from the restriction to ensure service continuity. However, with IBM Qradar cited above, the Microsoft ATP and ATA the above accounts were secured.

The passwords for these AD service accounts were under strict management by IT security for accounting and control. That is, they were not managed by IT respective System Admins.

Committee Observation and Recommendation

587. The Committee observed that the management of KPLC had instituted several IT security measures to safeguard the IT system that would avert the IT risks.

Committee Recommendation

588. The Committee directs the Accounting Officer to undertake continuous assessment of the IT system to ensure it is not prone to ICT risks and the OAG to keep this matter in view in subsequent audit cycles.

FINANCIAL YEAR 2019/2020

6.0 Material Uncertainty Relating to Going Concern

589. I draw attention to Note 2(a) to the financial statements which discloses that the Company recorded a loss before tax of Kes.7,042,014,000 for the year ended 30 June, 2020 (2019: profit before tax of Kes.333,614,000). Further, according to the same note the Company reported current liabilities of Kes.117,475,761,000, which exceeded its current assets of Kes.42,626,939,000 by Kes.74,848,822,000 (2019: Kes.70,969,861,000), as at 30 June, 2020. The Company has reported negative working capital position for the fourth consecutive year. As disclosed by the Board and Management in the past and current financial statements, strategic initiatives have been undertaken to improve the financial results of the Company. However, these initiatives appear not to have yielded the intended results as at 30 June, 2020. These conditions indicate that a material uncertainty exists, which may cast significant doubt on the Company's ability to continue as a going concern.

Management Response

590. During the period under review, the Company was experiencing working capital challenges primarily due to significant capital expenditure between 2014 and 2018, undertaken in support of the Government's universal electricity access agenda and generation expansion (5000MW+) program. Medium-term commercial borrowing was used to finance long-term infrastructure projects, thereby exacerbating the net current liability position. Furthermore, the rapid expansion of the low-voltage network contributed to increased distribution losses, resulting in reduced revenue. There were also delays in the timely review of retail electricity tariffs beyond the expiry of the control period, which led to suppressed revenue levels that could not cover the sector costs from generation to retail.

591. The Board and management undertook several key strategic initiatives to improve the financial health of the Company, these included

i) Stemming the increase in system losses during the financial year 2019/2020 and thereafter adopting a loss reduction path with a target of 0.5% annual reduction as prescribed by the regulator. This was to be achieved through various initiatives including; load balancing and optimal dispatch of generation as well as commissioning of new feeders to de-load heavily loaded feeders.

ii) Pursue roll-over of the existing money market debt facilities to ease pressure on cash flows and facilitate scheduled repayment of other commercial and guaranteed debt.

iii) Intensify debt collection and revenue protection though realignment of resources and the use of technology by deployment of smart meters on a gradual basis. This is in addition to launching of "Know Your Meter" and "Meter inspection" campaigns to identify and resolve illegal connections, un-metered supply and faulty meters. These campaigns were carried out using internal resources including all staff participating in field days.

iv) The Company had already restricted capital spending to critical projects and encouraged capital contributions from quoted customers and expedited the connection process for mutual benefit.

v) The Company also pursued an optimal balance between generation and electricity demand by engaging the key stakeholders. At the same time, it continued to enhance demand creation initiatives by focusing on premium customers and improving supply reliability; and

vi) There was also active engagement with the Regulator (EPRA) and other stakeholders on the critical need for a cost reflective tariff including the restructure of the life-line band and review of allowed system losses to reflect the grid dynamics.

592. In addition, the Company petitioned the Government for the release of funds amounting to Kes. 11.9 billion, owed to KPLC as at 30 June 2019, for the management, operation, and maintenance of the RES network. Further, the Board and Management sort government support through the Ministry of Energy and National Treasury in enhancing sustainability of the company and sector at large. The Company obtained waivers for breach of the current ratio for the second consecutive year and was cognisant of the fact that achieving the covenanted position on the ratios may be infeasible in one year. KPLC thus initiated discussions with key lenders on a potential review of the covenants as well as seeking on-lent debt repayment moratorium to provide leverage for commercial debt restructuring discussion. Despite the Company's declining performance, it continued generating positive operating cash flows which indicated that it was still able to meet most of its working capital requirements.

593. In conclusion, the strategic initiatives implemented by the Board and Management along with interventions by the government have seen the company's financial position improve quite significantly, its working capital position has improved from a low of negative Kes. 75 billion in 2020 to negative Kes. 27 billion in 2024. They have also commenced the repayment of the GoK on-lent loans that were on a moratorium from March 2020 and reported a profit after tax of Kes. 30 billion in June 2024.

Committee Observation

594. The Committee observed that:

i) The management had made strategic changes in their operations which had greatly improved the organization's financial position;

ii) The company had generated a profit of Kes 30 billion in financial 2023/2024, thereby resulting in the lifting of the moratorium on debt repayment and dividends were paid to shareholders after a nine-year freeze; and

iii) the price of the company shares had significantly improved in the stock exchange market and there was an improvement in working capital and cash flows.

Committee Recommendation

595. The Committee recommends that the management should ensure consistency in implementation of the strategic measures to stabilise the financial position of the Company.

7.0 Capacity Charge on Power Purchase Agreements

596. The financial statements reflect cost of sales of Kes.87,499,392,000, as disclosed under Note 8 to the financial statements. Included in these power purchase costs is Kes.47,495,000,000, which relates to capacity charge as per Power Purchase Agreements (PPAs). These charges, which account for 54% of the total cost of sales are significant and, considering their fixed nature, may have adversely affected the Company's performance resulting in losses. Management indicated that plans are underway to re-negotiate downwards the capacity charges on the existing PPAs. In addition, Management indicated that plans are underway to align the commercial operation dates of the PPAs in the pipeline with the Company's medium-term power demand such that there is no excess power generation. However, until these strategies are implemented, the Company will continue bearing the high fixed capacity charges.

Management Response

597. The accounting officer submitted that Management had engaged the regulator on the alignment of the Commercial Operation Date (COD) of some of the oncoming Power Purchase Agreements (PPA) with the Company's medium-term power demand. Further, Management has sought intervention of the government to have the existing PPAs renegotiated and to push the commissioning dates for the PPAs in the pipeline. A government of Kenya standing committee on PPA renegotiations was set up.

Committee Observation

598. The Committee observed that the—

i) management had engaged the regulator on the alignment of the Commercial Operation Date (COD) of some of the oncoming Power

Purchase Agreements (PPA) with the Company's medium-term power demand;

ii) management had sought intervention of the government to have the existing PPAs renegotiated and to push the commissioning dates for the PPAs in the pipeline; and

iii) a government of Kenya standing committee on PPA renegotiations was set up

Committee Recommendation

599. The Committee recommends that the management in liaison with the EPRA and the Ministry of Energy and Petroleum should fast track the aligning of the Commercial Operation Date and the renegotiations with existing PPAs and submit a status report to the OAG within six (6) months upon adoption of this report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

8.0 Non-Compliance with the Unclaimed Financial Assets Act, 2011

600. As reported in the prior year, the Company held in their books unremitted qualifying financial assets amounting to Kes.1,292,074,000 (2019: Kes.922,000,000), included under other payables of Kes.11,762,903,000 (2019: Kes.10,319,188,000), as disclosed under Note 28 to the financial statements. These assets include deposit refunds, unidentified receipts, unpaid customer electricity deposits, unpaid wayleaves compensation, unclaimed dividends, and stale cheques, which ought to have been reported and submitted to the Unclaimed Financial Assets Authority (UFAA), as required by the Unclaimed Financial Assets Act, 2011. According to the Act, failure to comply attracts a penalty of 25% of the assets held, in addition to a daily penalty of between Kes.7,000 and Kes.50,000 for each day a report is late in submission. Management has however indicated that various measures have subsequently been taken to comply with the requirements of the Act, including remitting Kes.88,000,000 of the outstanding balances to the Unclaimed Financial Assets Authority.

Management Response

601. KPLC has since held discussions with UFAA on the outstanding balances and over Kes. 88 million was remitted to UFAA in the year under review. The Company continued to retrieve information required by UFAA for long outstanding balances to enable correct allocation of the amounts or

submission of the same to UFAA. The Company has since aligned with the UFA Act and now makes quarterly submissions to the Authority

Committee Observation and Recommendation

602. The Committee observed that:

i) management had taken measures to ensure compliance with the Unclaimed Financial Assets Act, Cap. 494. This included capacity building of their staff at the regional level on the adherence to the law and locating the rightful owners of the unclaimed assets, which had led to a decrease in the unclaimed assets by Kes.778 million; and

ii) reconciliation is done on a monthly basis and the schedules of presumed abandoned assets remitted to UFAA on a quarterly basis.

iii) in the subsequent financial year 2022/2023, the company has complied with the requirements of the Act hence the matter stands resolved.

9.0 Non-Compliance with the Capital Markets Authority Listing Rules

603. As reported in prior years, the first schedule of the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002 (Amended 2016) sets out the minimum requirements for a company at the time of listing, as well as continuing obligations of the listed company. The first schedule provides that the listed company must have prepared financial statements for the latest accounting period on a going concern basis and that the related audit report must not contain any qualification or emphasis of matter in this regard. However, the audit opinion on the Company's financial statements includes emphasis of matter. In addition, the Company must not be in breach of its loan covenants, particularly in regard to the maximum debt capacity and should have adequate working capital. However, the Company's current liabilities of Kes.117,475,761,000 exceeded its current assets of Kes.42,626,939,000 by Kes.74,848,822,000 (2019: Kes.70,969,861,000), resulting to negative working capital, and a current ratio of 0.36:1 for various loans, which was below the current ratio of 1:1 threshold set out in the respective loan covenants. Consequently, the Management is in breach of the regulation.

Management Response

604. To cure the breach of the current ratio by borrowing covenant, the Company had to obtained waivers. KPLC initiated discussions with key lenders on a potential review of the covenants as well as seeking on-lent debt

repayment moratorium to provide leverage for commercial debt restructuring discuss. The Company pursued restructuring of short-term commercial facilities (overdrafts) into medium-term facility. Towards this objective, the Company managed to obtain a bank term loan amounting to Kes.6,750 million offsetting a bigger portion of the existing bank overdraft position. This saw a reduction in finance costs and eased the cash flow strain. Further, the Company was granted a moratorium by the Government for payment of principal and interest on Government On-Lent loans amounting to Kes. 5,700 million until July 2021 on-lent debts are guaranteed by the Government and hence payable to the Government. This enabled the Company to meet its operational obligations until the situation returns to normalcy.

Committee Observation

605. The Committee observed from the submission of the Accounting Officer at the time of examination that:

i) The management had made strategic changes in their operations which had greatly improved the company's financial position with the negative working capital reducing from Kes. 75 billion in 2020 to Kes. 27 billion in 2024;

ii) The company had generated a profit of Kes 30 billion in financial 2023/2024, thereby resulting in the lifting of the moratorium on debt repayment and dividends were paid to shareholders after a nine-year freeze; and

iii) the price of the company shares had significantly improved in the stock exchange market and there was an improvement in working capital and cash flows.

Committee Recommendation

606. The Committee recommends that the management should ensure consistency in implementation of the strategic measures to stabilise the financial position of the Company.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

10.0 System Inefficiency

607. During the year ended 30 June, 2020, Management reported 76.6% efficiency, resulting to system losses of 23.47%. However, the industry regulator, Energy and Petroleum Regulatory Authority (EPRA) has approved for the Management to recover from consumers, system losses of up to a limit of

19.99%. The Company therefore incurred losses, which were above the limit approved by EPRA as recoverable from consumers, therefore negatively impacting the financial performance of the Company. In the circumstances, I am unable to confirm the effectiveness of internal control measures put in place to mitigate the losses, including governance.

Management Response

608. The accounting officer submitted that the increase of system losses to the level of 23.47% in the period under review, was driven by several factors including the rapid network expansion at low voltage to connect customers under the last mile and Rural Electrification programs, irregular connections and stealing of power. The Company implemented the following initiatives that focused on Commercial and technical loss reduction activities in areas of highest gains;

- Phased retrofitting of post-paid higher-end customers with SMART meters.
- Establishment and operationalization of a data analytics unit for deepening data analysis on consumption trends for focused inspections.
- Complete feeder alignment to itinerary (data clean-up).
- Enhancement of meter reading supervisory tools.
- Installation of county boundaries meters for energy accounting.

In addition, the Management undertook a war-room strategy to deal with reduction of system losses particularly commercial losses.

Committee Observation

609. The Committee observed that the Company had implemented the initiatives that focused on Commercial and technical loss reduction activities in areas of highest gains.

Committee Recommendation

610. Within three (3) months of adoption of this report, the Accounting Officer to submit a progress report on power loss reduction to the OAG for verification.

11.0 Long Outstanding Accounts Receivables

611. As disclosed under Note 21(b) to the financial statements, the statement of financial position reflects gross trade and other receivables of

Kes.58,101,223,000. Included in this balance, which relates to the current portion of the total receivables, are trade receivables of Kes.25,193,650,000. Further, this figure includes Kes.12,495,084,000 or 50% of the total receivables, which were outstanding for a period of more than ninety (90) days. Management indicates that measures have been put in place to enhance collection of amounts owed to the Company. However, until these measures yield results, the Company will continue holding long outstanding receivables, which have a negative impact on its liquidity.

612. Further, as disclosed under Note 21(b) and 36(b)(ii) to the financial statements, the statement of financial position reflects gross amounts due from the Government amounting to Kes.16,563,693,000 (2019: Kes.11,953,850,000 (restated). This balance, which relates to management of the Rural Electrification Scheme on behalf of the Government, is long outstanding and has accumulated over the years. Further, it is not clear why it has taken a significantly long period to recover the outstanding amounts which are at risk of becoming unrecoverable and impaired over time.

In the circumstances, I am unable to confirm the effectiveness of internal control measures put in place to collect outstanding debts including governance.

Management Response

613. The accounting officer submitted that the debt collection from electricity customers was a challenge as customers were unable to meet their bill payment obligations in time due to the effects of Covid-19. KPLC also actively engaged the Government to ensure budget reallocation to Government institutions to ensure electricity bills owed by these institutions are settled. The Management applied the negative impact of the time value for money owing to the time taken to settle the receivable by government. An impairment of Kes. 827 million in 2020 (2019 Kes. 575 million) was made in the financial statements. Further, the National Treasury confirmed that an allocation of Kes. 5 billion for payment to KPLC was included in the supplementary budget for FY 2020/2021.

Committee Observations

614. The Committee observed that:

i) The company faced a challenge on debt collection from electricity customers who were unable to meet their bill payment obligations in time due to the effects of Covid-19;

ii) The National Treasury had included an allocation of Kes. 5 billion as payment to KPLC.

Committee Recommendations

615. Within three (3) months of adoption of this report, the Accounting Officer to submit a status report on debt collection to the OAG for verification.

12.0 Long Outstanding Trade Payables

616. As disclosed under Note 28(b) to the financial statements, the statement of financial position reflects current trade and other payables of Kes.88,479,128,000. Included in this balance are trade payables of Kes.1,379,725,000, which have been long outstanding. Management attributes the non-payment to financial challenges which the Company has been going through. Further, Management indicates that the Company requested for a moratorium on dividends payable to the Government, as part of initiatives under The National Treasury taskforce on sustainability of the Company, and the sector at large. However, until the rescue initiatives bear results, the Company will continue holding long outstanding payables, which may result to discontentment of financiers and suppliers, who may hold back any further financing and supply of goods and services to the Company.

In the circumstances, I am unable to confirm the effectiveness of internal control measures put in place to manage debts including governance.

Management Response

617. The accounting officer submitted that the trade payables balance of Kes. 1,379,725,000 include, among others unpaid 7.85% Preference dividends to GOK amounting to Kes. 875,041,074.

618. As highlighted under the going concern assessment, one of the National Treasury Taskforce recommendations was the Deferment of payment of outstanding dividend owed by KPLC. A moratorium on dividends payable to the Government was granted. The balance of Kes. 504 million comprised of supplier obligations that were either not fully documented for processing and the company was engaging the respective suppliers to provide additional

documentation, or obligations that had ongoing court cases and pending audit queries.

Committee Observation

619. The Committee observed that the management's inability to pay the long outstanding debts was due to the material uncertainty relating to going concern and a court case that had hindered payment of contractor's obligations amounting to Kes. 311 million.

620. Further, the amount owed to the government of Kes. 875 million had not yet been paid.

Committee Recommendation

621. The Committee directs the Accounting Officer to fast track the repayment of the long outstanding payables;

622. Within three (3) months upon adoption of this report, the Accounting Officer must submit a status report on the repayment of the long outstanding payables to the National Assembly and the OAG.

13.0 Weaknesses in Information Technology (IT) Systems

623. The Management has implemented a number of IT systems for its various operations. However, an audit review revealed that the Management had an inadequate Disaster Recovery Plan (DRP). The Management indicated that they were in the process of updating the Information and Communication Technology (ICT) policy to address the current gaps identified. Further, the audit review revealed control weaknesses in the change and access controls. In view of the above, it was not possible to confirm the existence of effective internal controls and related risk management including governance.

Management Response

624. The accounting officer submitted that the Information and Communication Technology (ICT) policy was reviewed in March 2021 and a subsequent Information Technology Disaster Recovery document was developed and operationalized in April 2021. This addressed the issues raised and made further improvements to the process.

625. Improvements were made on the change process to include user acceptance testing as recommended. Further, ICT has taken a holistic view of

the landscape and has come up with an ICT Strategy that addresses all the current and emerging challenges to support the business while managing risks.

Committee Observation

626. The Committee observed that the management of KPLC had instituted several IT security measures to safeguard the IT system that would avert the IT risks.

Committee Recommendations

627. The Committee directs the management to undertake continuous assessment of the IT system to ensure it is not prone to ICT risks and the OAG to keep in view of this matter in subsequent audit cycles.

FINANCIAL YEAR 2020/21

14.0 Material Uncertainty Relating to Going Concern

628. I draw attention to Note 2(a) to the financial statements which discloses that the Company's current liabilities of Kes.116,114,111,000 exceeded its current assets of Kes.49,634,944,000 by Kes.66,479,167,000 (2020: Kes.74,848,822,000). The Company has remained in a negative working capital position for the fifth consecutive year. The Board of Directors and Management in the past and in the year under review, indicated strategic initiatives that were being undertaken to improve the financial results of the Company. However, these initiatives appear not to have yielded the intended results as at 30 June, 2021. As further stated in Note 2(a), this condition, along with other matters as set forth in Note 2(a), indicates existence of material uncertainty that may cast significant doubt on the Company's ability to continue as a going concern.

Management Response

629. During the period under review, the Company was experiencing working capital challenges primarily due to significant capital expenditure between 2014 and 2018, undertaken in support of the Government's universal electricity access agenda and generation expansion (5000MW+) program. Medium-term commercial borrowing was used to finance long-term infrastructure projects, thereby exacerbating the net current liability position. Furthermore, the rapid expansion of the low-voltage network contributed to increased distribution losses, resulting in reduced revenue. There were also delays in the timely review of retail electricity tariffs beyond the expiry of the control period, which led to

suppressed revenue levels that could not cover the sector costs from generation to retail.

630. The Board and management undertook several key strategic initiatives to improve the financial health of the Company, these included

i) Stemming the increase in system losses during the financial year 2019/2020 and thereafter adopting a loss reduction path with a target of 0.5% annual reduction as prescribed by the regulator. This was to be achieved through various initiatives including; load balancing and optimal dispatch of generation as well as commissioning of new feeders to de-load heavily loaded feeders.

ii) Pursue roll-over of the existing money market debt facilities to ease pressure on cash flows and facilitate scheduled repayment of other commercial and guaranteed debt.

iii) Intensify debt collection and revenue protection though realignment of resources and the use of technology by deployment of smart meters on a gradual basis. This is in addition to launching of "Know Your Meter" and "Meter inspection" campaigns to identify and resolve illegal connections, un-metered supply and faulty meters. These campaigns were carried out using internal resources including all staff participating in field days.

iv) The Company had already restricted capital spending to critical projects and encouraged capital contributions from quoted customers and expedited the connection process for mutual benefit.

v) The Company also pursued an optimal balance between generation and electricity demand by engaging the key stakeholders. At the same time, it continued to enhance demand creation initiatives by focusing on premium customers and improving supply reliability; and

vi) There was also active engagement with the Regulator (EPRA) and other stakeholders on the critical need for a cost reflective tariff including the restructure of the life-line band and review of allowed system losses to reflect the grid dynamics.

631. In addition, the Company petitioned the Government for the release of funds amounting to Kes. 11.9 billion, owed to KPLC as at 30 June 2019, for the management, operation, and maintenance of the RES network. Further, the Board and Management sort government support through the Ministry of

Energy and National Treasury in enhancing sustainability of the company and sector at large. The Company obtained waivers for breach of the current ratio for the second consecutive year and was cognisant of the fact that achieving the covenanted position on the ratios may be infeasible in one year. KPLC thus initiated discussions with key lenders on a potential review of the covenants as well as seeking on-lent debt repayment moratorium to provide leverage for commercial debt restructuring discussion. Despite the Company's declining performance, it continued generating positive operating cash flows which indicated that it was still able to meet most of its working capital requirements.

632. In conclusion, the strategic initiatives implemented by the Board and Management along with interventions by the government have seen the company's financial position improve quite significantly, its working capital position has improved from a low of negative Kes. 75 billion in 2020 to negative Kes. 27 billion in 2024. They have also commenced the repayment of the GoK on-lent loans that were on a moratorium from March 2020 and reported a profit after tax of Kes. 30 billion in June 2024.

Committee Observation

633. The Committee observed that:

i) The management had made strategic changes in their operations which had greatly improved the organization's financial position;

ii) The company had generated a profit of Kes 30 billion in financial 2023/2024, thereby resulting in the lifting of the moratorium on debt repayment and dividends were paid to shareholders after a nine-year freeze; and

iii) the price of the company shares had significantly improved in the stock exchange market and there was an improvement in working capital and cash flows.

Committee Recommendation

634. The Committee recommends that the management should ensure consistency in implementation of the strategic measures to stabilise the financial position of the Company.

15.0 Capacity Charge on Power Purchase Agreements

635. The financial statements reflect cost of sales of Kes.94,220,014,000, as disclosed under Note 8 to the financial statements. Included in these power purchase costs is Kes.49,237,105,566, which relates to capacity charge as per

Power Purchase Agreements (PPAs). These charges, which account for 52% of the total cost of sales are significant and, considering their fixed nature, may have adversely affected the Company's performance during the year. In the previous financial year, the Management indicated that plans were underway to re-negotiate downwards the capacity charges on the existing PPAs but there were no revisions during the year under review. In addition, Management indicated that plans were underway to align the commercial operation dates of the PPAs in line with the Company's medium-term power demand such that there is no excess power generation. However, until these strategies are implemented, the Company will continue bearing the high fixed capacity charges.

636. In addition, the capacity charge cost for Independent Power Producers (IPPs) during the year under review was higher than the cost of the energy purchased clearly indicating the IPPs were operating below their capacity resulting in payment for idle capacity which negatively impacts on the profitability or sustainability of the Company.

Management Response

637. The accounting officer submitted that;

i) Capacity charge is a key aspect in energy pricing especially in developing energy markets that require expansion in electricity generation and hence need to attract investors and financiers. It comprises the development cost of the plant and the fixed operating costs that is incurred by the plant. Without the capacity pricing model, the country would not be able to attract investment in generation and thereby risking widespread rationing.

ii) The Capacity charge of Kes.49.2 billion of Kes. 26.8 billion for KenGen and Kes. 22.4 billion for Independent Power Producers.

iii) The government through the Ministry of Energy and the Energy Regulator (EPRA) is developing the Energy Policy along with other regulations that will outline the energy pricing framework with a view to enhancing energy affordability while remaining attractive for investment.

Committee Observation

638. The Committee observed that the—

i) Out of the Capacity charge of Kes.49.2 billion, Kes. 26.8 billion belonged to KenGen and Kes. 22.4 billion was for Independent Power Producers;

ii) government through the Ministry of Energy and the Energy Regulator (EPRA) is developing the Energy Policy along with other regulations that will outline the energy pricing framework with a view to enhancing energy affordability while remaining attractive for investment.

Committee Recommendation

639. The Committee directs that KPLC should hence forth cease paying for idle power;

640. Within six (6) months upon adoption of this report, the Accounting Officer should submit a status report on the renegotiated energy pricing and compliance with recommendation 649 to the National Assembly and OAG for verification.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

16.0 Impairment Loss on Stalled Projects

641. The statement of profit or loss and other comprehensive income and Note 9(a) to the financial statements reflects network management expense of Kes.10,237,382,000 which includes an impairment loss on capital Work-In-Progress (WIP) totaling Kes.205,561,000. The impairment was in respect of projects that had part of the contract sum paid for but had no activity for the last three years. Management indicated that part of the impaired amount totaling Kes.159,195,364 related to fraudulent payments made to contractors and which was subject of a court case against former employees of the Company.

In the circumstances, the objectives for which these projects were intended to achieve remains unattained and the Company may not have obtain value for money incurred on the projects.

Management Response

642. The accounting officer submitted that a total of 9,127 projects spread across all the Company Regions did not have any movements in expenditure for 3 years to 30th June, 2021. The above was attributed to the following reasons:

i) The 2017 cancelled Labor and Transport contract for which some contractors had gone to court on the basis of alleged irregularities in the procurement process and the cases were still pending.

ii) Wayleaves and land ownership challenges and land succession issues

iii) There were cases of projects where customers were yet to complete the required set up for KPLC to complete the projects.

Committee Observations

643. The Committee observed that KPLC had faced challenges affecting completion of the projects.

Committee Recommendations

644. The Committee directs the Accounting Officer to fast-track completion of the 9,127 stalled projects; and

645. Within three (3) months of adoption of this report, the Accounting Officer should submit a status report of the projects to the OAG for verification.

17.0 Comparative Cost of Power Purchase-Kenya Electricity Generating Company PLC and The Independent Power Producers

646. Analysis of electricity units purchased during the year under review against the cost of purchase revealed a disparity between the cost of power procured from Kenya Electricity Generating Company Plc and the power procured from Independent Power Producers (IPPs). Records availed by the Company shows Kenya Electricity Generating Company PLC supplied a total of 8,443 Gigawatt hours (GWh) or 70% of the total power purchased while the IPPs supplied the remaining 3,688GWh (30%). However, the cost of the total power purchased from Kenya Electricity Generating Company PLC was Kes.44,805,190,000 which was only 44%, compared to the purchase cost of power from IPPs totaling Kes.56,345,169,000 or 56%. The analysis clearly shows that it cost KPLC an average of Kes.5.3 per Kilowatt hours (KWh) of power purchased from Kenya Electricity Generating Company PLC while it cost the Company an average of Kes.15.3 per KWh of power from the Independent Power Producers. It was noted that the effective unit cost of power purchased from some Independent Power Producers was as high as Kes.195 per KWh, 136 per KWh and 118 per KWh while the same was sold at an average of Kes.15.66 per KWh. The Company, therefore, entered into very expensive contracts with Independent Power Producers (IPPs) and was in some instances selling power below the cost price.

647. Further analysis of the payments in respect of power purchased showed that the capacity charge component of the energy paid to Independent Power

Producers was always more than the charge for actual energy supplied and, especially for three Independent Power Producers, whose ratio of capacity charge to energy procured was as high as 110:1, 99:1 and 30:1 time respectively. The fuel cost paid to these firms was similarly higher than the cost of energy/power procured.

Management Response

648. The accounting officer submitted that the unit cost (at utilization factor) is the average cost of purchasing a single unit. For plants with capacity payments (Thermals and Geothermals), the utilization factor determines the average unit cost, with plants with low utilization factor (lower than the contracted capacity factors) having a higher unit cost. The plants are economically dispatched when their utilization factor is near or equal to its contracted capacity factor. It applies to both KenGen and IPP plants. KenGen plants (with capacity payments) had relatively lower average cost because utilization is comparatively higher. This is elaborated further as below

i) The utilization factor for the plants is informed by the Merit order of dispatch. The ranking in the Merit order for all plants is based on least cost.

ii) The Fixed cost on majority of the KenGen plants is low due to the element of amortization. By the time the parties were getting into PPAs in 2008/2009, the plants were fully amortized.

649. Thermal power plants were contracted and developed at a time when there was acute deficiency in generation and much later in tandem with the government's strategy for additional 5000MW, given the slow growth in demand (due to delayed implementation of key demand driver projects including SGR electrification, Konza Techno polis, LAPSSET and the County industrial parks) supply has increased necessitating the lower utilization of thermal plants. The unit price increases as the utilization factor decreases, as we endeavor to reduce thermal dispatch due to high fuel costs and promote use of renewable/green energy, the unit price appears higher due to the fixed nature of the capacity cost.

Committee Observation

650. The Committee observed from the submissions of the Accounting Officer that:

i) KenGen plants with capacity payments had relatively lower average cost because utilization was comparatively higher and the fixed cost on majority of the KenGen plants was low due to the element of amortization;
ii) thermal power plants were contracted and developed at a time when there was acute deficiency. However, given the slow growth in demand due to delayed implementation of key demand driver projects, supply was increased necessitating the lower utilization of thermal plants;
iii) the unit price of thermal power plants appears higher due to the fixed nature of the capacity cost.

Committee Recommendation

651. The Committee directs that KPLC should hence forth cease paying for idle power;

652. Within three months of adoption of this report, the Accounting Officer should submit a status report on cost of power purchase.

18.0 Non-Compliance with the Unclaimed Financial Assets Act, 2011

653. As reported in the prior years, the Company held in their books unremitted qualifying financial assets amounting to Kes.,691,000,000 (2020: Kes.1,292,074,000), included under other payables of Kes.2,269,799,000 (2020: Kes.1,635,236,000), as disclosed under Note 28 to the financial statements. These assets include deposit refunds, unidentified receipts, unpaid customer electricity deposits, unpaid wayleaves compensation, unclaimed dividends, and stale cheques, which ought to have been reported and submitted to the Unclaimed Financial Assets Authority (UFAA), as required by the Unclaimed Financial Assets Act, 2011. According to the Act, failure to comply attracts a penalty of 25% of the assets held, in addition to a daily penalty of between Kes.7,000 and Kes.50,000 for each day a report is late in submission. Management has, however, indicated that various measures have subsequently been taken to comply with the requirements of the Act, including submission of financial assets totaling Kes.143,030,237 to the Unclaimed Financial Assets Authority.

Management Response

654. The Company submitted a total of Kes. 143 million to Unclaimed Financial Assets Authority (UFAA) during the year under review. Capacity was enhanced at the regional level, reconciliations done on a monthly basis and the schedules of presumed abandoned assets remitted to UFAA on a quarterly

basis. The Company has since aligned with the UFA Act and now makes quarterly submissions to the Authority

Committee Observations and Recommendation

655. The Committee observed that:

i) management had taken measures to ensure compliance with the Unclaimed Financial Assets Act, Cap. 494. This included capacity building of their staff at the regional level on the adherence to the law and locating the rightful owners of the unclaimed assets, which had led to a decrease in the unclaimed assets by Kes.778 million; and

ii) reconciliation is done on a monthly basis and the schedules of presumed abandoned assets remitted to UFAA on a quarterly basis.

iii) in the subsequent financial year 2022/2023, the company has complied with the requirements of the Act hence the matter stands resolved.

19.0 Non-Compliance with the Capital Markets Authority Listing Rules

656. The First Schedule of the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002 (Amended 2016) sets out the minimum requirements for a company at the time of listing, as well as continuing obligations of the listed entity. The First Schedule provides that the listed company must have prepared financial statements for the latest accounting period on a going concern basis and that the related audit report must not contain any qualification or emphasis of matter in this regard. However, the audit opinion on the Company's financial statements includes an emphasis of matter. In addition, the Regulations provide that the Company must not be in breach of its loan covenants, particularly in regard to the maximum debt capacity and should have adequate working capital. However, as was similarly reported in the prior years, the Company's current liabilities of Kes.116,114,111,000 exceeded current assets of Kes.49,634,944,000 by Kes.66,479,167,000 resulting in a negative working capital of a similar margin.

Consequently, the Management is in breach of the regulations.

Management Response

657. The accounting officer submitted that during the period under review, Kenya Power implemented financial recovery initiatives that focused on the key areas of; system efficiency, sales growth, revenue collection, cost management and customer experience. It is also leveraging on the support

from the Government as highlighted in the National Treasury task force report on the "Financial position of KPLC and its implications to the electricity sector".

Some of the key achievements are as highlighted below;

Focus area / Recommendation	Amount	Impact
Moratorium on repayment of on-lent loans	Kes. 5.7 B	Improved cash flow and working capital
Reimbursement of RES operations and Maintenance deficit to KPLC	Kes. 2.5B	
Enhanced revenue collection	Kes. 11 B	
Refinancing of KPLC commercial debt	Kes. 6.75 B	Overdraft conversion, lower interest
Increased revenue	Kes. 10 B	Higher PBT

Committee Observation

658. The Committee observed from the submission of the Accounting Officer at the time of examination that:

i) The management had made strategic changes in their operations which had greatly improved the company's financial position with the negative working capital reducing from Kes. 75 billion in 2020 to Kes. 27 billion in 2024;

ii) The company had generated a profit of Kes 30 billion in financial 2023/2024, thereby resulting in the lifting of the moratorium on debt repayment and dividends were paid to shareholders after a nine-year freeze; and

iii) the price of the company shares had significantly improved in the stock exchange market and there was an improvement in working capital and cash flows.

Committee Recommendation

659. The Committee recommends that the management should ensure consistency in implementation of the strategic measures to stabilise the financial position of the Company.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

20.0 Power Losses in the System

660. Note 7(a) to the financial statements reflects electricity sales of Kes.105,348,505,000 and Kes.20,578,339,000 in postpaid and prepaid sales respectively. A review of units of electricity purchased against units sold revealed a total of 12,102GWh purchased from power producers out of which, 9,203GWh was sold to customers resulting in a loss variance of 2,899GWh or 23.95% which translates to approximately Kes.39,667,708,000 using the average sale price for the 9,203GWh sold.

661. The industry regulator, Energy and Petroleum Regulatory Authority (EPRA) approved for the Company to recover from consumers system losses of up to 19.9% (approximately Kes.32,959,807,000) that is deemed to be normal loss. The excess of 4.05% above the allowed loss (23.95-19.9) translates to a loss of approximately Kes.6.707 billion had the same energy been sold to the consumers. The loss variance of 23.95% was attributed to systems inefficiencies arising from commercial or technical operations. These losses contribute to high power charges to the consumers since the industry regulator allows the Company to charge up to 19.9% of the power loses to consumers.

662. The difference/excess of 4.05% power loss above the approved recovery rate of 19.9% constitutes unaccounted for power which though the cost is not passed on to the consumers, it increases the operating costs of the Company. Management explained that the difference between the actual system losses of 23.95% and the allowed system losses of 19.9% is borne by the Company without any billing impact to the customers/consumers. This loss has, however, been persistent for the last four years.

Management Response

663. The accounting office submitted that in order to mitigate escalating power losses, the Company had implemented the following key strategic initiatives during the period:

i) Installation of Energy accounting meters already complete at regional level. Installation of border meters between counties for energy balance.

ii) Progression of ongoing data clean up campaigns to completion.

iii) SMART metering remains a major focus in addressing commercial losses. During the year under review the company retrofitted of 55000 meters to smart meters to enhance billing accuracy and efficiency in monitoring.

iv) The company also undertook a field campaign dubbed the 'War on Losses' which focused on non-vending meters (i.e. non-vends and zero vends) and billing issues (i.e. quality of meter reading) besides scheduled inspections of SMEs and large power installations.

Committee Observation

664. The Committee observed that the Company had implemented the initiatives to mitigate escalating power losses.

Committee Recommendation

665. Within three (3) months of adoption of this report, the Accounting Officer to submit a progress report on power loss reduction to the OAG for verification and to monitor the reduction of power loss.

21.0 Failure to Observe Guidelines on Board of Directors Meetings

666. The Office of the President in a circular referenced OP/CAB.9/1A dated 11 March, 2020 provided that Board meetings should be restricted to a minimum of four (4) as provided for in the State Corporations Act and capped at a maximum of six (6) for each financial year or as maybe specified in the enabling legal instruments. The same principle should apply to respective Committees of the Board. The Circular further requires that any extra Board meeting (including Special Board meetings) above the maximum number specified shall require a justification by the Board as well as the source of funds and the implications thereof, which request shall be submitted for approval to the relevant Cabinet Secretary, in consultation with the State Corporations Advisory Committee. However, during the year under review, the Board of Directors held ninety (90) meetings translating to a Board meeting every four days hence becoming operational in nature. Out of the 90 Board meetings, twenty-one (21) were full Board meetings and sixty-nine (69) were held by Board Committees. Although the justification for approval request to the Cabinet Secretary was submitted and granted, the source of funds and the cost implication due to the high number of extra meetings was not factored as there were no approved budget reallocation.

Management Response

667. The accounting officer submitted that during the period under review, KPLC was implementing a turnaround strategy and therefore in the interim period, it necessitated holding of frequent meetings between Management and the Board. In addition, the majority of the Board members (5) were appointed in July 2020 and required the increased meetings to fully understand the operations of the Company and by extension the reasons for the declining performance. A circular from the Head of Public Service dated 11th March 2020 on the Management of State in paragraph 2 restricts the number of board meetings to a minimum of 4 and a maximum of 6 for each financial year. Any extra board meetings including special board meetings above the maximum number specified shall be submitted for approval to the Cabinet Secretary, in consultation with SCAC.

668. On 7th October 2020, KPLC received approval to hold extra special meetings until the presentation of the transformation strategy for the organization but not later than three months from the date of appointment of new Board Directors. The Head of Public Service noted that the "appointment of the new independent Board members and in consideration of the unique circumstances and Presidential directive regarding revamping the sector". On 13th January 2021, KPLC wrote to the Ministry forwarding a summary of Board Meetings held from July to December 2020 and sought approval of a work plan for the second half of the financial year (January to June 2021). Approval was subsequently granted on 19th February 2021 by the Head of Public Service and the same was subsequently communicated to KPLC vide a letter dated 24th March 2021. The Head of Public Service noted that 'The Board of KPLC is expected in its initial post appointment period, to hold requisite meetings towards developing, monitoring, securing implementation of the necessary turnaround strategy for the Company.'

It's important to note that all the additional meetings were approved as required by law.

Committee Observation

669. The Committee observed that during the FY 2020/21, KPLC was undergoing turnaround strategies thus, necessitating extra sittings by the Board.

670. The Committee observed that despite getting the approval for extra sittings, the management of KPLC did not provide sufficient documentations to support their explanation and the source of funds to support the extra meetings.

Committee Recommendations

671. Within three (3) months upon adoption of this report, the Accounting Officer to submit the supporting documents confirming approval of extra sittings by the Board to the OAG for verification failure to which the Board should be surcharged.

22.0 Weaknesses in Information Technology (IT) Systems

672. The Management has implemented several IT systems for its various operations. However, an audit review of the systems revealed that user activity monitoring process did not include critical elements such as review of privileged accounts with access to the applications and databases, review of issuance of access to the applications commensurate to job designation, while review for dormancy for one application was not done. Further, several inactive user accounts in one application had not been disabled despite exceeding the prescribed dormancy period.

In view of the above, it was not possible to confirm the effectiveness of IT controls and related risk management including governance.

Management Response

673. The Accounting Officer submitted that the user account reviews cover all accounts (regular and privileged) and are done manually on a weekly rotational basis. Further access to databases is monitored through trigger tables. User access rights issuance is done at the point of provisioning by the Functional Admins in the user departments (e.g. Finance, Supply Chain, Commercial Services and Sales) in order to ensure that the rights are commensurate with the job function. Specific forms are used to document this process. The dormant accounts were locked and regular reviews for dormancy implemented

Committee Observation

674. The Committee observed that the management of KPLC had instituted several IT security measures to safeguard the IT system that would avert the IT risks.

Committee Recommendation

675. The Committee directs the Accounting Officer to undertake continuous assessment of the IT system to ensure it is not prone to ICT risks and the OAG to keep in view of this matter in subsequent audit cycles.

23.0 Long Outstanding Trade and Other Receivables

676. As disclosed under Note 21(b) to the financial statements, the statement of financial position reflects gross trade and other receivables of Kes.62,507,075,000. Included in this balance is an amount of Kes.418,461,268 (analysed in progress reports in Annexure 1) which had been outstanding for more than 150 days. Management indicated that measures had been put in place to enhance collection of amounts owed to the Company. However, until these measures yield results, the Company will continue holding long outstanding receivables which have a negative impact on its liquidity.

In the circumstances, it has not been possible to confirm the effectiveness of internal controls measures put in place to collect outstanding debts.

Management Response

677. The accounting officer submitted that the Company had enhanced debt collection measures including;

i) Recruitment of Debt Collectors to supplement internal efforts. The Company hired 4 debt collectors to cover Nairobi, Mt. Kenya, North Eastern and Coast regions.

ii) The Company increased its field presence and provided platforms for customers to access services and pay their bills conveniently as a measure to boost revenue collection.

iii) Sought support from the National Treasury to assist in collection of GOK and County debts.

iv) Focused approach and segmentation of the debt per customer category and the age of the debt.

v) Restructuring of the debt collection structure internally to ensure accountability.

The above measures have continued to bear fruit leading to improved revenue collection and better liquidity

Committee Observations

678. The Committee observed that:

i) The company faced a challenge on debt collection from electricity customers who were unable to meet their bill payment obligations in time due to the effects of Covid-19;

ii) The National Treasury had included an allocation of Kes. 5 billion as payment to KPLC.

Committee Recommendations

679. The Committee directs the Accounting Officer to submit a status report on debt collection to the OAG for verification within three (3) months of adoption of this report.

24.0 Implementation of Last Mile Connectivity Project

680. The Company implements the Last Mile Connectivity Project under a financing agreement signed between the Government of Kenya and the African Development Bank (AfDB). A number of weaknesses and governance lapses in implementation of the project were observed as follows:

(i) Lack of public participation by the communities targeted in the project which led to lack of project ownership by members of the public thus hampering implementation.

(ii) There was no evidence of engagement with key regulatory, oversight and stakeholder agencies such as the Energy and Petroleum Regulatory Authority (EPRA) and Rural Electrification and Renewable Energy Corporation (REREC) an omission which can lead to duplication of projects.

(iii) Documents that are key to procurement of services and works including feasibility studies and surveys, progress reports for projects, technical specifications, bills of quantities and architectural drawings, and environmental and social impacts assessment reports were not provided for audit review.

(iv) The Company procured consultancy services for supervision and management of civil works and installation of meters at a cost of Kes.274,380,500. However, site visits by the audit team revealed no evidence of consultants' personnel's presence at those sites, raising doubt on whether they had been deployed as per the contract.

(v) The project had received a total of Kes.28,272,249,380 representing 63% of the approved loan amount of Kes.44,797,955,760. However, documents in respect of disbursement and payments to contractors were not provided for audit verification. In addition, although the project had a projection of connecting 525,796 customers by the end of the project, only 213,432 had been connected representing 41% of the projection yet disbursement was at 63%.

(vi) Single prepaid meters procured from a Chinese Company at a cost of US$.10,073,000 (Kes.1,086,373,050) and installed at customers premises were not vending even though they had been activated by the contractor thereby implying that customers were purchasing tokens but the Consumer Interface Units (CIU) were not picking the tokens and thus had no access to power. Other meters had taken as far as three years without vending.

Management Response

681. The accounting officer submitted that;

(i) At the inception of the Project, KPLC together with Ministry of Energy did stakeholders' consultation and on several occasions to inform them about the project. Additionally, during selection of beneficiaries, Identification of transformer/locations was done by the KPLC regional offices in consultation community leaders (including members of parliament). The transformers targeted were those with an existing network but were under-utilized at the time and thus needed maximization for optimal utilization.

(ii) Further to this, KPLC has been undertaking continuous customer education in the target project areas to educate customers on key aspects of project such as terms of connection, purchase of tokens as evidenced by Environmental & Social Management Framework (ESMF)

(iii) KPLC undertook a stakeholder engagement forum where participants were drawn from various government agencies such as REA, KENGEN, EPRA, Ministry of Energy and other interest groups. The meeting was held on 6th January 2015 at Safari Park hotel where various aspects of the project were discussed and clarified. Minutes of the said meeting with signed attendance list of participants was provided.

(iv) KPLC also undertook the preparation of the Project Resettlement Policy Framework covering the Electrification component C1 and the Off-Grid Component C2 being implemented by REA.

(v) Last mile connectivity Project as one of the Government Project is centrally coordinated at the Ministry of Energy together with other projects thus mitigating the risk of duplication of projects.

(vi) The feasibility study was done by the financiers as part of the project preparation and is captured in various project appraisal documents.

(vii) The Consultancy contract was signed on 9th November 2017, the consultant's scope entailed procurement assistance, design reviews/approvals and construction works supervisions. The consultant supervises multiple sites per lot which cut across several counties. The audit team was assigned to the KPLC Engineers for the period of audit whereas the consultant was engaged in supervising ongoing sites at the same time.

(viii) The payment vouchers prior to June 2020 were raised by Ministry of Energy and are not available within KPLC. However, payments supporting documents are available for review. Subsequently, the payment Vouchers done after June 2020 complete with the supporting documents were available for review.

a) For the Kes. 28,272,249,380 so far disbursed constituting payment for AfDB Phase I, AfDB Phase II and World Bank Last Mile Phase III, the payment vouchers and supporting documents are available for review as described in (a) above.

b) Concerning Kes. 6,219,894,863.60 being the difference between the amounts disbursed and the physical progress of work, we wish to respond as follows.

- The scope of audit covered AfDB II and IDA phase whose total budget is Kes. 31,189,955,760. The total disbursement made for the two project phases is Kes.15,728, 249,380.00 translating to 50% Disbursement ratio.
- The corresponding completion rate in respect to the scope of audit is 41%. Therefore, the difference is 9% which is equivalent to Kes. 2,544,502,444.20. This difference is majorly attributable unrecovered advance payment which was Kes. 2,515,151,067.85 for both Phases as at a time of audit.

(ix) The contract provides that the supplier remedies for any product defects and faults within the warranty period. Contract between KPLC and Shenzhen Clou on supply of pre-paid meters was provided.

682. According to the contract, warranty of 18 months is a provided. The warranty period is applicable from the last date of receipt and acceptance of

meters at the receiving store. The last batch was received and accepted in KPLC store on 20th August, 2020 as per the Completion Certificate therefore the warranty is still valid. During the period under review, the suppliers collected 8,492 Pieces of faulty meters for repairs/replacement. Additionally, the supplier identified the cause of failure as software related and rolled out plan to upgrade the software in the already installed meters to forestall future meter failures.

Committee Observations

683. The Committee observed that the faulty meters were replaced by the supplier given that the goods were still under the warranty period. The software managing the meters was updated and management had carried a mapping of meters throughout the country.

684. The current status of the project was that a total of 541,000 customers had been connected with electricity, and the project was implemented by AfDB and overseen by the consultant.

Committee Recommendation

685. Within three (3) months upon adoption of this report, the Accounting Officer to submit a status report on connectivity of electricity to the OAG for verification.

FINANCIAL YEAR 2021/22

25.0 Property, Plant and Equipment - Street Lighting Projects Cost

686. The statement of financial position reflects property plant and equipment balance of Kes.272,335,824,000 as at 30 June, 2022. As disclosed in Note 16 to the financial statements, the balance includes Kes.23,015,299,000 in respect of work in progress. Review of work in progress schedules and projects listing provided for audit revealed street lighting projects with a balance of Kes.1,239,001,000. Management has indicated that the street lighting projects are funded by the National Government and implemented by the Company after which the projects are handed over to respective County Governments.

687. Records at the Company indicates that upon completion, the projects are cleared from the books against the received funds. Although the build-up of costs are included under property, plant and equipment as work in progress, the resultant assets are not reported as part of the Company's assets. Under the

circumstances, capital work in progress balance of Kes.23,015,299,000 has been overstated.

Management Response

688. The accounting officer submitted that the Street lighting capital costs incurred by KPLC were previously accounted against the funds received from the government and thereby having a netting off effect. Following the recommendation all completed GOK-funded street lighting projects were capitalized as assets under the Rural Electrification Scheme (RES).

Committee Observation and Recommendation

689. The Committee observed that the management had capitalized the street lights as assets under the Rural Electrification Scheme. Therefore, the matter stands resolved.

26.0 Variances on Balance with Related Entities

690. The statement of financial position reflects balances of Kes.40,295,197,000 and Kes.87,508,583,000 in respect of trade and other receivables and trade and other payables respectively as disclosed in Note 21(b) and Note 28(b) to the financial statements. Review of receivables and payables balances for related entities revealed variances between amounts reported by the Company and those confirmed by the entities as indicated below:

Company	Classification	Balance Reported by KPLC	Confirmed Balance (Kes.)	Variance (Kes.)
KENGEN	Payables	23,147,261,000	23,888,820,000	(741,559,000
KETRACO	Payables	4,567,868,000	4,643,480,000	(75,612,000)
KETRACO	Receivables	1,677,814,000	1,690,167,000	(12,353,000)
REREC	Payables	12,164,824,000	10,685,566,000	1,479,258,000

The Management attributed the variances to disputes relating to interest charged on late payment, withholding taxes, works carried out on behalf of the entities among others. Collection of the disputed amounts was therefore in doubt.

Management Response

691. The accounting officer submitted that KPLC undertook joint reconciliations with each of the sector agencies, thus KENGEN, KETRACO & REREC. The variances were found to relate to withholding VAT and cut-off dates; these have since been addressed, and the discrepancies in the balances resolved.

Committee Observation and Recommendation

692. The Committee observed that the management had undertaken a joint reconciliation with REREC and KETRACO and resolved the variances. Therefore, the matter stands resolved.

Emphasis of matter

27.0 Material Uncertainty Relating to Going Concern

693. I draw attention to Note 2(a)(iii) to the financial statements which discloses that the Company's current liabilities of Kes.110,431,165,000 exceeded its current assets of Kes.54,687,018,000 by Kes.55,744,147,000 (2021 - Kes.66,479,167,000). The Company has remained in a negative working capital position for the sixth consecutive year. The Board of Directors and Management in the past and in the year under review, indicated strategic initiatives that were being undertaken to improve the financial results of the Company. However, these initiatives appear not to have yielded the intended results as at 30 June, 2022. As further stated in Note 2(a), this condition, along with other matters as set forth in the Note, indicates existence of material uncertainty that may cast significant doubt on the Company's ability to continue as a going concern.

Management Response

694. During the period under review, the Company was experiencing working capital challenges primarily due to significant capital expenditure between 2014 and 2018, undertaken in support of the Government's universal electricity access agenda and generation expansion (5000MW+) program. Medium-term commercial borrowing was used to finance long-term infrastructure projects, thereby exacerbating the net current liability position.

695. Furthermore, the rapid expansion of the low-voltage network contributed to increased distribution losses, resulting in reduced revenue. There were also delays in the timely review of retail electricity tariffs beyond the expiry of the

control period, which led to suppressed revenue levels that could not cover the sector costs from generation to retail.

696. The Board and management undertook several key strategic initiatives to improve the financial health of the Company, these included

i) Stemming the increase in system losses during the financial year 2019/2020 and thereafter adopting a loss reduction path with a target of 0.5% annual reduction as prescribed by the regulator. This was to be achieved through various initiatives including; load balancing and optimal dispatch of generation as well as commissioning of new feeders to de-load heavily loaded feeders.

ii) Pursue roll-over of the existing money market debt facilities to ease pressure on cash flows and facilitate scheduled repayment of other commercial and guaranteed debt.

iii) Intensify debt collection and revenue protection though realignment of resources and the use of technology by deployment of smart meters on a gradual basis. This is in addition to launching of "Know Your Meter" and "Meter inspection" campaigns to identify and resolve illegal connections, un-metered supply and faulty meters. These campaigns were carried out using internal resources including all staff participating in field days.

iv) The Company had already restricted capital spending to critical projects and encouraged capital contributions from quoted customers and expedited the connection process for mutual benefit.

v) The Company also pursued an optimal balance between generation and electricity demand by engaging the key stakeholders. At the same time, it continued to enhance demand creation initiatives by focusing on premium customers and improving supply reliability; and

vi) There was also active engagement with the Regulator (EPRA) and other stakeholders on the critical need for a cost reflective tariff including the restructure of the life-line band and review of allowed system losses to reflect the grid dynamics.

697. In addition, the Company petitioned the Government for the release of funds amounting to Kes. 11.9 billion, owed to KPLC as at 30 June 2019, for the management, operation, and maintenance of the RES network. Further, the Board and Management sort government support through the Ministry of

Energy and National Treasury in enhancing sustainability of the company and sector at large. The Company obtained waivers for breach of the current ratio for the second consecutive year and was cognisant of the fact that achieving the covenanted position on the ratios may be infeasible in one year. KPLC thus initiated discussions with key lenders on a potential review of the covenants as well as seeking on-lent debt repayment moratorium to provide leverage for commercial debt restructuring discussion. Despite the Company's declining performance, it continued generating positive operating cash flows which indicated that it was still able to meet most of its working capital requirements.

698. In conclusion, the strategic initiatives implemented by the Board and Management along with interventions by the government have seen the company's financial position improve quite significantly, its working capital position has improved from a low of negative Kes. 75 billion in 2020 to negative Kes. 27 billion in 2024. They have also commenced the repayment of the GoK on-lent loans that were on a moratorium from March 2020 and reported a profit after tax of Kes. 30 billion in June 2024.

Committee Observation

699. The Committee observed that:

i) The management had made strategic changes in their operations which had greatly improved the organization's financial position;

ii) The company had generated a profit of Kes 30 billion in financial 2023/2024, thereby resulting in the lifting of the moratorium on debt repayment and dividends were paid to shareholders after a nine-year freeze; and

iii) the price of the company shares had significantly improved in the stock exchange market and there was an improvement in working capital and cash flows.

Committee Recommendation

700. The Committee recommends that the management should ensure consistency in implementation of the strategic measures to stabilise the financial position of the Company.

28.0 Unmatched Passthrough Costs to Revenue

701. The statement of profit or loss and other comprehensive income reflects revenue from contracts with customers and cost of sales amounting to Kes.157,353,254,000 and Kes.115,208,040,00 respectively. As disclosed in Note

7(a) to the financial statements, the revenue includes Kes.7,322,584,000 and Kes.24,446,580,000 in respect of foreign cost adjustment and fuel cost charge respectively. However, the corresponding foreign exchange costs and fuel costs amounted to Kes.9,072,591,000 and Kes.26,358,279,000 respectively as reflected in Note 8 to the financial statements resulting in variances of Kes.1,750,007,000 and Kes.1,911,699,000. The foreign exchange costs and fuel costs are passed to the customers hence expected to match. Management has indicated that the variance was due to actual recovery rates approved by the Energy and Petroleum Regulatory Authority (EPRA) for billing to customers, being lower than the actual rates applied at the point of purchasing power from the producers. The disparity in those rates were borne by the Company thus affecting its financial performance for the year.

Management Response

702. The accounting officer submitted that the variance is between the computed Fuel Cost Charge (FCC) and that approved by EPRA for recovery from January 2022. While the FCC rates chargeable to customers and approved by the regulator remained fixed at 463 cts/kWh during the duration, the actual computed FCC rates were higher leading to under-recoveries.

cts/kWh	**Jan 22**	**Feb 22**	**Mar 22**	**Apr 22**	**May 22**	**Jun 22**
Computed FCC	539	560	653	638	606	471
Applied FCC	463	463	463	463	463	463

Committee Observation

703. The Committee observed that the Company had implemented the initiatives to mitigate escalating power losses.

Committee Recommendation

704. Within three (3) months of adoption of this report, the Accounting Officer to submit a progress report on power loss reduction to the OAG for verification and to monitor the reduction of power loss.

29.0 Forensic Audits

705. On 29 March, 2021, a Presidential Taskforce on the review of Power Purchase Agreements (PPAs) was appointed through a special Gazette Notice

No.3076 to undertake a comprehensive review and analysis of all Power Purchase Agreements (PPAs) entered into between various Independent Power Producers (IPPs) and The Kenya Power and Lighting Company PLC. The Terms of Reference (TOR) of the Taskforce was to develop a suitable strategy for engagement with the IPPs and lenders, in order to achieve relief for electricity consumers and ensure the long-term viability and sustainability of the energy sector.

706. The Taskforce in its report, outlined nine (9) recommendations, key among them performing forensic audits on the following areas: -

i) Procurement of Power Purchase Agreements with Independent Power Producers.

ii) Procurement and the use of Heavy Fuel Oil (HFO) in electricity generation by thermal power plants in the last three (3) years.

iii) System losses on the Company's key commercial consumers to confirm that power delivered is consistent with metered power and that there is no power leakage.

iv) Supply chain processes in the Company with the objective of improving the performance of the Company; improve efficiency and enhance value for money in procurement and supply chain, among other priority areas.

Subsequently, two (2) consultants were appointed in February, 2022 and a third in June, 2022 to carry out the assignment on behalf of the Auditor-General.

707. As at the date of this report, the forensic audits had not been finalized. Consequently, I was unable to perform alternative audit procedures and to quantify the adjustments, if any, likely to affect the revenue, cost of sales, administrative expenses, tax, property, plant and equipment, trade receivables, trade payables, and disclosures, in the absence of the forensic reports.

Management Response

708. The accounting officer submitted that the contracted consultants subsequently submitted the forensic reports to the Office of the Auditor-General

Committee Observation and Recommendation

709. The Committee observed that the forensic audits had been tabled in the Parliament of Kenya. Therefore, the matter stands resolved.

Other Matter

30.0 GOK Support for 15% Tariff Reduction

710. During the year under review, a Presidential directive was issued on the implementation of 15% tariff reduction for all customer categories which was effected through Gazette Notice No. 64 dated 7 January, 2022. Arising from the Presidential directive, the National Government disbursed a total of Kes.7,050,000,000 to the Company to support the tariff reduction. According to the framework agreed between the Ministry of Energy and Semi-Autonomous Agencies (SAGAs) in the electricity sub-sector, the SAGAs in the electricity supply chain comprising The Kenya Power and Lighting Company PLC (KPLC), the Kenya Electricity Generation Company PLC (KenGen), the Kenya Electricity Transmission Company Limited (KETRACO), and the Geothermal Development Company Limited (GDC), were to contribute through cost reduction initiatives to supplement Government Support.

711. KPLC implemented the tariff reduction from January, 2022 but the other Agencies did not implement the cost reduction measures as per respective commitments which was estimated to translate to Kes.2,173,000,000. Consequently, the Company did not realize full revenue support occasioned by the 15% tariff reduction directive.

Management Response

712. The accounting officer submitted that the contributions from the other agencies in the electricity sub-sector towards 15% tariff reduction was agreed as tabulated below:

Agency	Contributions for the 6-months to June 2022	Contributions for the 6-months to June 2022	Total
Kenya Electricity Generation Company PLC (KenGen)	1,750,000,000	1,750,000,000	3,500,000,000
Kenya Electricity Generation Company PLC (KenGen)	250,000,000	250,000,000	500,000,000

Geothermal Development Company Limited (GDC),	173,000,000	173,000,000	346,000,000
Total	**2,173,000,000**	**2,173,000,000**	**4,346,000,000**

KENGEN

713. It was initially agreed that KenGen's contribution toward the tariff reduction would be Kes. 3.5 billion. However, the calculation of the deficit from the 15% tariff cut was based on 2018 tariff rates. Due to reduced tariffs for Muhoroni GT and Olkaria power plants, Kenya Power realized additional benefits that accrued to KPLC rather than KenGen. As a result, KenGen petitioned EPRA to fulfil Kes. 2,780,157,651 of its Kes. 3.5 billion commitment for the January–December 2022 period. Following discussions between KenGen, KPLC, and EPRA, an agreed contribution of Kes. 2,954,088,311 was fulfilled by KenGen, and the relevant credit notes were provided.

KETRACO

714. KETRACO issued credit notes totaling Kes. 500 million. These were applied to the wheeling-charge invoices (operational & maintenance tariff) for the period January–December 2022, as part of its contribution to the 15% end-user tariff reduction. Supporting documentation were provided.

GDC

715. GDC issued credit notes totaling Kes. 346 million. These were applied to steam-charge invoices for Olkaria I (Units 4 & 5) during January–December 2022, representing its share of the 15% end-user tariff reduction.

Committee Observation and Recommendation

716. The Committee observed that the company had implemented the 15% tariff reduction as per the GOK directive, hence the matter stands resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

31.0 Comparative Cost of Power Purchase between KENGEN and Independent Power Producers

717. Analysis of electricity units purchased during the year under review against the cost of purchase revealed a disparity between the cost of power procured from the Kenya Electricity Generating Company PLC (KENGEN) and the power

procured from Independent Power Producers (IPPs). The analysis revealed that KENGEN supplied a total of 7,911 Gigawatt hours (GWh) or 63% of the total power purchased while the IPPs supplied the remaining 4,742GWh (37%). However, the cost of the total power purchased from KENGEN was Kes.38,902,478,000 which was only 41%, compared to the purchase cost of power from IPPs totaling Kes.56,274,009,000 or 59%. The analysis further revealed that it cost KPLC an average of Kes.3.93 per Kilowatt hours (KWh) of power purchased from Kenya Electricity Generating Company PLC while it cost the Company an average of Kes.11.87 per KWh of power from the Independent Power Producers. The Company, therefore, entered into expensive contracts with Independent Power Producers (IPPs) and was in some instances selling power below the cost price.

Management Response

718. The accounting officer submitted that the variance in the average cost per unit purchased from KenGen vs IPPs was attributed to plants that generate up to 49 % of KenGen total generated units were significantly amortized before separation from Kenya Power in 1999. analysis of the entire KenGen Energy contribution in the energy mix leads to oversimplification. To unravel this discrepancy, the units purchased by KenGen are unbundled and average cost per unit is analyzed below.

1. Significantly Amortized KenGen plants

Old KenGen Power Plants were significantly amortised by the time of executing their respective PPAs in 2009. For instance, in the audit year 2021/2022 query, the costs per unit for 49% KenGen Energy mix are:

- The Major Hydros constitutes to 40 % of KenGen component of Generation mix with an average cost of 2.74 Kes./kWh.
- Olkaria 1 and Olkaria II constitutes to 9 % of KenGen component of Generation mix with an average cost of 2.29 Kes./kWh

2. New Power plant per technology are comparable for the audit year 2021/2022;

i) Thermal Power plants

- Thermals Comparisons: KDP3 (KenGen) average cost per year was 21.57 Kes./kWh compared to Rabai (IPP) 20.97 Kes./kWh. The two plants are the same technology and located at the Coast region.

- Muhoroni GT (KenGen) the average cost for the same period is 50.69 Kes./kWh which is the gas turbine plant is the system.

ii) Geothermal Power Plants

- Geothermal Comparisons: Olkaria I AU & Wellhead (KenGen) average costs are Kes. 7.10 per kWh and Kes. 9.61 per kWh respectively whereas Orpower (IPP) average Costs is Kes. 12.03 per kWh.

iii) Wind Power Plants

- Wind Comparisons; Ngong II Wind (KenGen) cost are 9.93 Kes./kWh as compared to LTWP 10.96 Kes./kWh

iv) FIT Plants

- The new Wind and Solar Power Plants are based on the FIT Tariff Policy of USD 0.12/kWh. This includes solar plants such as Selenkei, Cedate, Malindi and Strathmore. Others are Kipeto wind, and IPP small Hydros.

Committee Observation

719. The Committee observed from the submissions of the Accounting Officer that:

i) KenGen plants with capacity payments had relatively lower average cost because utilization was comparatively higher and the fixed cost on majority of the KenGen plants was low due to the element of amortization;

ii) thermal power plants were contracted and developed at a time when there was acute deficiency. However, given the slow growth in demand due to delayed implementation of key demand driver projects, supply was increased necessitating the lower utilization of thermal plants

iii) the unit price of thermal power plants appears higher due to the fixed nature of the capacity cost.

Committee Recommendation

720. The Committee directs that KPLC should hence forth cease paying for idle power;

721. Within six (6) months upon adoption of this report, the Accounting Officer must submit a status report on the renegotiated energy pricing and compliance with recommendation 720 to the National Assembly and OAG for verification.

32.0 Unmatched Cost of Thermal Power Against Units Purchased

722. The statement of profit or loss and other comprehensive income reflects cost of sales amounting to Kes.115,208,040,000 as disclosed in Note 8 to the financial statements. The costs include fuel charge of Kes.26,487,695,000 representing an increase of Kes.15,303,503,000 or 137% from the previous year. However, as reflected in Note 8(c) to the financial statements, thermal energy purchased increased to a total of 1,577Gwh units from 940GWh units in 2020/2021, an increase of 637GWh units or 68%. The increase of fuel costs, therefore, did not match the increase in units of thermal energy purchased during the year.

Management Response

723. The accounting officer submitted that in the year under review, the weighted unit Fuel Cost increased from Kes. 48.39 to Kes. 70.47 per kg or 45.64 % from the previous year 2020/2021. This was due to the significant increase in international fuel prices as well as the deterioration of the local currency. Furthermore, the quantum of units generated from thermal plants increased during the period thereby resulting in a disproportionate effect of an increase in Fuel Cost by 136.83 %.

Committee Observation

724. The Committee observed that the price of the fuel was determined by the regulator EPRA which reviews the prices periodically.

725. Further, the Committee observed that there was an increase in international fuel prices as well as the deterioration of the local currency.

Committee Recommendation

726. Within three (3) months upon adoption of this report, the Accounting Officer to submit a change in price analysis for the cost of fuel to the OAG for verification that the change is proportionate to the increased cost.

33.0 Budgetary Control and Performance

727. During the year under review, the approved total expenditure budget for Kenya Power and Lighting Company was Kes.177,618,431,980. However, review of recurrent budget revealed that the Company spent Kes.167,634,935,592 against the approved budget of Kes.146,242,067,492 resulting to an over expenditure of Kes.9,983,496,388 being 15% contrary to Regulation 40 (2) of the Public Finance Management (National Government) Regulations, 2015, which

provides that prior to incurring any expenditure against revised budgets, Accounting Officers shall seek the approval of The National Treasury, and if approval is granted by the Cabinet Secretary, it shall be communicated to the Accounting Officers through a notification. Further, the Management adopted the Board approved recurrent budget of Kes.153,028,067,492 instead of The National Treasury approved recurrent budget of Kes.146,242,067,492.

Management Response

728. The accounting officer submitted that the approved total budget for KPLC for the financial year 2021/2022 was Kes. 183, 193,424,492.00 being Kes. 151,769,424,492.00 and Kes. 31,424,000,000.00 for Recurrent Expenditure Budget and Capital (Development) Budget respectively. The actual recurrent expenditure during the financial year was Kes.167, 897,785,914 thereby exceeding the budget by Kes. Kes.16, 128,361,422 being 10.6%. This was occasioned by:

i) Increased power purchase costs by Kes. 14.1B owing to growth in demand, increase in international fuel prices and depreciation of the local currency, this increase was reflected in the higher revenue because of demand growth. The power purchase cost is funded using revenues from electricity sales and hence subject to business dynamics.

ii) Reduction of the salaries and wages budget on approval by the National Treasury by Kes. 1.05B.

iii) Depreciation of the Kes. against the dollar leading to an over expenditure on loss on forex charges totaling Kes. 5.7B.

729. KPLC appealed for a reinstatement of the reduced amount of the recurrent budget and this delayed the adoption of the approved budget of Kes. 151,769,424,492 having posted the intended adjustments into GIMIS. While there was an overrun in the recurrent budget mainly driven by forex fluctuation and increased power purchase costs to support demand growth, KPLC remained within the total budget ceiling as shown below;

FY2021/22	Board approved budget KES. M	National Treasury Approval KES. M	Actual Expenditure KES. M
Recurrent	153,028	151,769	167,898

Expenditure			
Capital Expenditure	32,894	31,424	9,983.00
Totals	**185,922**	**183,193**	**177,881**

Committee Observation

730. The Committee observed from the explanation of the Accounting Officer that the over expenditure was attributed to the increased demand for electricity necessitating use of more fuel to run thermal plants.

731. The Committee noted that the management had requested for approval through the GIMIS system to the National Treasury which was not responded to.

Committee Recommendation

732. The Committee recommends that the Accounting Officer should henceforth adhere to the approved budget or otherwise seek formal approval for reallocation of funds as per section 43(2)(b) of the Public Finance Management Act, CAP 412A.

34.0 Human Resources Matters

34.1 Irregular Secondment of Staff

733. During the year under review, thirty-six (36) employees were seconded from different Ministries to the Company. However, review of relevant documents revealed that the secondment was not approved by the Public Service Commission (PSC) as required by Section 42 of the Public Service Act, 2017. Further, secondment of thirty-three (33) employees to serve in supply chain officer positions for a period of three (3) months effective February, 2022 was done by the Cabinet Secretary to The National Treasury instead of PSC. In addition, the officers continued to serve beyond the secondment period without formal extension of the term of secondment.

Management Response

734. The accounting officer submitted that this included outsourcing of procurement function to government organizations in the interim. The Ministry staff were deployed to KPLC as part of the outsourcing recommendation with

an understanding that the respective ministries will continue paying them. The staff secondment was a government initiative over which KPLC did not have control.

Committee Observation and Recommendation

735. The Committee observed that:
   i) during the period KPLC was undergoing a turnaround strategy spearheaded by the government;
   ii) the seconded staff from the National Treasury were performing duties of the suspended staff of the procurement department;
   iii) the staff worked for nine months and returned to the National Treasury afterwards; and
   iv) the suspended staff were later reinstated; hence the matter stands resolved.

34.2 Unconcluded Recruitment Process of a Managing Director

736. During the year under review, the Board of Directors through Management engaged a consultancy firm to undertake the recruitment of the Company Managing Director through a contract signed on 27 January, 2022. The process entailed analysis, preparation of applicants' profiles, longlisting, shortlisting, interview, and recommendation of suitably qualified applicant for the position the Managing Director. The consultant in a letter dated 6 May, 2022 indicated that it had concluded the recruitment process and presented the results of screening, final interview and recommended candidates for consideration to the Chairperson of the Board of Directors and was paid full contract price of Kes.2,989,320. However, the report of the consultant, evaluation results, recommendation of the consultant and Board minutes and resolutions on the matter were not provided for audit review. Further, no explanations were provided on why the appointment was yet to be made.

Management Response

737. The accounting officer submitted that a substantive Managing Director & Chief Executive Officer (MD & CEO) was appointed in May 2023.

Committee Observation and Recommendation

738. The Committee observed that there was currently a substantive Managing Director in KPLC, hence, the matter stands resolved.

34.3 Non-Compliance with the One-Third of Basic Salary Rule

739. During the year under review, at least 2,635 employees were paid a net salary which was less than a third (1/3) of their basic pay in the month of June, 2022. This was in contravention of Section 19(3) of the Employment Act, 2007 which provides that the total amount of deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages. No plausible explanation was provided for breach of law on payment of salaries and allowances.

Management Response

740. The accounting officer submitted that the company has been progressively enforcing the requirement through automation of salary advance loans that automatically checks the 1/3rd requirement. The numbers are expected to reduce since no loan/advance will be granted to a staff who does not meet the 1/3rd requirement.

Committee Observation

741. The Committee observed that the management had taken steps by automating their system to ensure compliance with the One-Third of Basic Salary Rule.

Committee Recommendation

742. Within three months (3) of adoption of this report, the Accounting Officer to submit a report on the status of compliance with the one-third basic rule to the OAG for verification.

35.0 Procurement of Goods and Services

35.1 Irregular Hire of Generator for Mandera and Lodwar Power stations

743. The Management contracted a rental company to supply on hire, 2 megawatts (MW) and 2.5 MW capacity generators for power generation in Mandera and Lodwar power stations through six contracts spread between August, 2020 to September, 2022 at a cost of Kes.185,311,161 through direct procurement. Review of the procurement process and contract documents revealed the following anomalies:

i) Management cited Section 103(2)(d) of the Public Procurement and Asset Disposal Act, 2015 as the justification for direct procurement. However, the justification was not appropriate since no standardization and compatibility was needed as the same services could be sought from other providers.

ii) The method of procurement of the services was indicated as through open tender in the approved procurement plans for the financial year 2019/2020 and 2020/2021 as required by Section 53 (10) of the Public Procurement and Asset Disposal Act, 2015. The use of direct procurement method is therefore in violation of the Act.

iii) Hire of the generators has been the prevalent at the Company. However, a cost benefit analysis between hiring and buying of generators conducted by Management in 2019/2020 financial year concluded that purchasing own generators was beneficial. Despite the recommendation, the Management continued to hire generators after the survey, thus negating the value for money for expenditure spent to hire the generators.

iv) The supplier was engaged to provide generator hire services in Lodwar and Mandera stations at a cost of Kes.14,227,895 and Kes.11,036,760 for the service period between 25 November, 2020 to 25 February, 2021 and 19 December, 2020 to 18 February, 2021 respectively without signed contracts contrary to Section 135 of the Public Procurement and Asset Disposal Act, 2015. Further, the supplier continued to provide services in respect of six contracts before the procurement process was completed and contracts entered into with successful tenderer which is irregular.

v) The Evaluation Committee in its report dated 7 January, 2021 indicated that the supplier's bids for the service period between 25 November, 2020 to 25 February, 2021 and 19 December, 2020 to 18 February, 2021 at a cost of Kes.14,227,895 and Kes.11,036,760 respectively, were not responsive in the preliminary evaluation due to failure to submit audited financial statements for the last 18 months. In addition, the technical evaluation report indicated that the bidder did not submit details of services statement in accordance with section XXI part B of the tender documents. Although the Evaluation Committee noted the non-responsiveness to tender, it recommended the award of tenders and negotiated with the bidder to bring the documents later which was contrary to the Regulations. Further there was no support evidence that the contractor provided the documents. Therefore, the award of the two contracts were irregular and contrary to Regulation 75(1) of the Public Procurement and Asset Disposal Regulation, 2020.

vi) The evaluation report indicated that the supplier quoted a price of Kes.10,846,470 for hire of generators to Mandera Substation for service period between 19 December, 2020 to 18 February, 2021. However, the

Evaluation Committee made correction to the quoted price to Kes.11,036,759 on grounds that the bidder's price schedule computed VAT at 14% while the prevailing VAT rate was 16%. This correction was contrary to Section 82 of the Public Procurement and Asset Disposal Act, 2015.

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

Management Response

744. The accounting officer submitted that the Power supply at Mandera and Lodwar Power stations is provided by contracted generators using diesel. These areas are outside the National grid. The generation is contracted to a third-party provider with funding from the Ministry of Energy (MoE). They are high security risk areas that can't do without power at any one given time. Upon receipt of funding from MoE, KPLC floated Open tenders under tender no: KP1/9A.1A/OT/018/18-19 and KP1/9A.1A/OT/019/18-19 for hiring of 2000 Kw generator capacity for Lodwar and Mandera power station respectively. M/s Aggreko Kenya Energy Rentals Ltd was the lowest evaluated and was awarded contract for one-year period from 25th May 2019 to 24th April 2020 for Lodwar and 20th June 2019 to 19th June 2020 for Mandera.

745. Before expiry of the contract, KPLC requested MoE for additional funds for hiring of the generators for another one year as the Ministry looked at grid extension or any other long-term power solution to the area. Request for additional funds was provided. The approval was granted; however, it was only for 6 months to enable KPLC do a cost benefit analysis between hiring and procuring new generators. After the contract variation, MoE did not provide sufficient funds to allow for an open tender. MOE approval for additional funds for the extension of hiring of generators. It was not possible to vary the contracts for a period of six months as the law only allowed variation of contract to a maximum of 25% of the original contract price as per section 139 (3) (e) Public Procurement and Asset Disposal Act 2015 (PPADA). Therefore, KPLC did contract variation no 1 for the two stations for a period of 2 & 2.5 months respectively.

746. As a result of the above and need to keep the two stations operational KPLC did Direct tender No. KP1/9A.1A/DT/010/19-20 and KP1/9A.1A/DT/011/19-20 for the remaining period of 3.5 and 4 months in compliance with section 139 (3) (e) PPADA 2015. This is because Aggreko Kenya Energy Rentals Ltd were already on site and considering the need for standardization of the service,

reasonableness of price, and unsuitability of alternatives hence the choice of direct method of procurement was justified.

Cost Benefit Analysis:

747. After the cost benefit analysis, hiring was found to be expensive compared to procuring new ones. KPLC requested MoE for funds to purchase the generators. MoE released Kes.162 million for each station i.e. Lodwar and Mandera for purposes of buying new generators. However, KPLC could not proceed with the procurement since the procurement had not been factored in the Procurement Plan.

Subsequent Procurements:

748. Direct tender nos. KP1/9A.2/DT/022/OG/20-21 and KP1/9A.2/DT/027/NM/20-21. The above tenders were done as a stop gap to take care of the shortfall of the months MoE had given for extension. MoE provided Kes. 86 million and Kes. 90 million for Lodwar and Mandera respectively.

Consequently, the following open tenders were done:

1) KP1/9A.1A/OT/005/20-21 (Lodwar)

2) KP1/9A.1A/OT/006/20-21 (Mandera)

However, after the tendering process the tenders were found non-responsive and cancelled on 16.12.2020.

749. As a result, direct tender no. KP1/9A.1A/DT/004/20-21 was done to allow commencement and completion of the open tender. However, the contract was not executed because the bidder failed to provide a performance security. KP1/9A/2/OT/039/NM/20-21 was done and found non-responsive and cancelled on 01.04.2021. Direct Tender no. KP1/9A.2/DT/053/20-21 was done and approved on 18.06.2021 for a period of six-months to expire in November 2021. In view of the above, KPLC wish to state as follows: -

i) The service provider had already installed the plant on site and there was no other way of meeting power needs of the area without these critical generators-National Security.

ii) The ministry took rather too long to provide funding for the procurement of the generators

iii) Direct procurement was the only applicable method taking into consideration of the non-responsive open tenders, the reasonableness of the prices and the unsuitability of alternatives to the service in question.

iv) After the cost benefit analysis, availability of funds from MoE and inclusion of the said procurement in the procurement plan for the year 2021/2022, KPLC proceeded to tender and award procurement of new generators expected to be delivered and installed under the financial year 2022/2023.

v) It is imperative to note that KPLC is just an implementing agency and is dependent on MoEP for funding and guidance for the operations of the off-grid stations.

Committee Observation

750. The Committee observed that:

i) Mandera and Lodwar Power stations are outside the National grid hence power is supplied by generators using diesel;
ii) KPLC using funds from the MOEP floated the tender for hiring generators which was awarded to the lowest bidder;
iii) Before contract expiration, the MOEP released funds to KPLC covering only six months to enable KPLC undertake a cost benefit analysis between hiring and purchasing of the generators;
iv) KPLC varied the contracts for 2 months and 2.5 months respectively after which it undertook direct tendering for the remaining 4 months and 3.5 months respectively as a stopgap to keep the stations operational and maintain constant supply of electricity;
v) The cost benefit analysis disclosed that hiring was expensive compared to procuring new ones;
vi) KPLC did not proceed to undertake another tender as it was not factored in the procurement plan hence the matter stands resolved.

35.2 Irregular Procurement of Insurance Services

751. During the year under review, the Management procured provision of various insurance services through restricted tender method. Review of the procurement process and documentation revealed the following anomalies.

i) The Management did not maintain a list of prequalified suppliers for Insurance brokers or providers of insurance services. Subsequently, the Management invited nine (9) tenderers contrary to Section 89 (5) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the

procuring entity to invite tenders from at least ten (10) persons selected from the list maintained as provided for under Sections 57 and 71 of the Act. As a result, the procurement process for the nine (9) insurance policies was done irregularly.

ii) An existing insurance services provider continued to provide services from 1 September, 2021 to 30 June, 2022 despite the procurement process having concluded on 19 January, 2022 when the professional opinion and the contract subsequently signed on 15 March, 2022.

iii) The use of direct procurement method and subsequent award to seven (7) insurance brokers and underwriters was irregular as justification used was not among those outlined under Section 103 of the Public Procurement and Asset Disposal Act, 2015. Management had indicated that direct procurement was used because the contract for the services had exhausted the maximum variation threshold of 25% thus a further extension would have not been tenable under the set regulations and the Act.

iv) The insurance brokers and underwriters continued to provide insurance services from 1 March, 2022 to 30 June, 2022 after conclusion of the procurement process as professional opinions were signed in March, 2022 and contract entered into on June, 2022.

v) The budget for insurance services as per the approved budget and approved procurement plan was Kes.760,000,000. However, the Company incurred expenditure of Kes.810,593,434 resulting in unexplained over expenditure of Kes.50,593,434 or 7% of approved budget.

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

Management Response

752. The accounting officer submitted that:

i) The use of direct procurement was justified and approved pursuant to Section 103 (2) (b) and (d) of the PPADA noting that there was a court injunction filed under petition No. E307 of 2021 that suspended the open tender for prequalification of insurance service providers. The company had to ensure that its resources and public interests are safeguarded despite the existence of a court order suspending open tendering, noting that the existing contracts were set to expire on 28.02.2022. Consequently, a legal opinion was sought and given internally on 03.02.2022 which informed the decision to use direct method

procurement to the existing seven (7) insurance brokers for twenty-seven (27) policies that were expiring on 28.02.2022. The twenty-seven (27) policies procured included crucial insurances for the business and critical power installations e.g. Sub-stations, Company Fleet insurance which is compulsory under the Traffic Act. Lack of vehicle insurance for the fleet would paralyze operations. These policies together with Group life /Work Injury Benefits act 2007, lack of which would expose staff and KPLC to legal liability. Nature of Kenya Power operations are in the Public's Interest and Safety.

ii) All the notification of awards were issued per contract award after approval of the professional opinion to the service providers on various dates in March 2022.

iii) As per Cap 487 Chapter 156 (1) the insurers undertook to pay claims, after payment of the premium to avert liability that may arise before contract signing for critical insurance covers. However, the delay in contracting was occasioned by unavoidable circumstances including the court injunction and lack of adequate capacity in the procurement department after Procurement professionals were suspended occasioned by a Presidential Taskforce report.

iv) In the year 2021, Reinsurance Companies operating in the East African market significantly altered the rates under their treaties for Fire and Motor policies. Subsequently the Company was unable to place the Fire Sub-Station polices and Fire Consequential loss policies as well as Public Liability (& Products liability) Insurance. The Company had opted for self-insurance due to lack of finances, as a result of which the matter was raised in Parliament.

v) The Company was compelled under public interest, to reallocate funds and issue a supplementary procurement plan to meet the increased reinsurance rates, leading to the over expenditure.

Committee Observation

753. The committee observed that:

i) there was a court injunction that suspended the open tender for prequalification of insurance service providers;

ii) the company had to ensure that its resources and public interests are safeguarded despite the existence of a court order suspending open tendering;

iii) The twenty-seven (27) policies procured included crucial insurances for the business and critical power installations e.g. Sub-stations, Company Fleet insurance which is compulsory under the Traffic Act;

iv) Lack of vehicle insurance for the fleet would paralyze operations.

Committee Recommendation

754. Within three (3) months of adoption of this report, the Accounting Officer to submit the supplementary procurement plan and approval for the budget reallocation to the OAG for verification.

35.3 Irregular Procurement of Consultancy Services

755. The Company engaged a foreign consultant through a contract dated 16 March, 2022 for provision of legal services of review and renegotiations of power purchase agreements at a cost of Kes.114,000,000. Review of the procurement process revealed the following anomalies:

i) As part of the mandatory requirements, bidders were required to submit a duly filled, signed, and stamped self-declaration form indicating that the tenderer is not debarred, a confidential business questionnaire, declaration of no conflict of interest and a self-declaration form indicating that they will not engage in any corrupt or fraudulent practice. However, evaluation score sheets by the evaluation committee and the evaluation report dated 23 December, 2021 indicated that the winning bidder's self-declaration forms, confidential business questionnaire, declaration of no conflict of interest were not duly stamped as required in the evaluation criteria. This implies that the tenderer was non-responsive and ought not to have progressed to technical and financial evaluation.

ii) The Cabinet Secretary to The National Treasury who had initiated the process required the Company to engage a consultant through a competitive procedure which would involve identification of reliable candidates with suitable track records and who had previously or are currently providing services to the Government. However, no documentary evidence was provided to indicate how the three consultants invited to bid were identified.

iii) The Evaluation Committee in its evaluation report dated 24 December, 2022 indicated that the tender documents submitted by the winning bidder through an online platform could not be accessed using the Company portal. The Head of Procurement requested the bidder to resend the documents through email to the Evaluation Committee secretary. Despite the Secretary to the Evaluation Committee not agreeing to

resubmission as it was contrary to Regulation 57 of the Public Procurement and Asset Disposal Regulations, 2020, the Committee went ahead and evaluated the resubmitted tender documents and eventually awarded the tender to the bidder.

iv) Tender negotiation was done by a different Evaluation Committee from the one which had evaluated the tender contrary to Section 46(4)(d) of the Public Procurement and Asset Disposal Act, 2015 which requires an Evaluation Committee to complete the procurement process for which it was appointed, and no new Committee shall be appointed on the same issue unless the one handling the issue has been procedurally disbanded.

v) Examination of the bid documents, contracts and other documents provided for verification revealed that the Management did not require the consultants to provide performance security contrary to Section 142(1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

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

Management Response

756. The accounting officer submitted that Pursuant to Section 79 of Public Procurement and Asset Disposal Act (2)(a) the Evaluation committee noted that stamping of the bid documents was a minor deviation that did not materially depart from the requirements set out in the tender documents. This was noted in section 5.2.1 of the Evaluation report. The procurement was as a result of the Presidential Taskforce report which required review and renegotiation of the Power Purchase Agreements between KPLC and Independent Power Producers (IPPs) for the purpose of reduction of the power tariffs. KPLC identified through Specially Permitted Procurement three reputable legal experts who had previous experience with the Government and approval was given on 02.11.2021 by the National Treasury for use of Specially Permitted Procurement method due to the complexity of the procurement and strict timelines given to have the Taskforce report implemented. The requirement in the tender was for an indemnity cover for GBP 10,000,000.

Committee Observation and Recommendation

757. The committee observed that:

i) the procurement was as a result of the Presidential Taskforce report which required review and renegotiation of the Power Purchase Agreements;

ii) the National Treasury approved use of Specially Permitted Procurement method due to the complexity of the procurement and strict timelines given to have the Taskforce report implemented; and

iii) the Evaluation Committee in its report observed that stamping of the bid documents was a minor deviation that did not materially depart from the requirements set out in the tender documents; hence the matter stands resolved.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

36.0 Power Losses in the System

758. The financial statements in Note 7(a) reflects electricity sales of Kes.107,206,265,000 and Kes.19,666,579,000 in respect of postpaid and prepaid electricity sales respectively. Review of units of electricity purchased against units sold revealed a total of 12,653GWh purchased from power producers out of which, 9,814GWh were sold to customers resulting in an efficiency loss of 2,839GWh or 22.44% which translates to approximately Kes.31,206,288,000 using the average sale price for the 9,814GWh sold.

759. The industry regulator, the Energy and Petroleum Regulatory Authority (EPRA), approved for the Company to recover from consumers system losses of up to 19.9% (approximately Kes.21,077,217,000) that is deemed to be normal loss. The excess of 2.43% above the allowed loss (232.53-19.9) translates to a loss of approximately Kes.2.57 billion had the same energy been sold to the consumers. The loss variance of 23.95% was attributed to systems inefficiencies arising from commercial or technical operations. These losses contribute to high power charges to the consumers since the industry regulator allows the Company to charge up to 19.9% of the power loses to consumers. The difference or excess of 4.05% power loss above the approved recovery rate of 19.9% constitutes inefficiency power loss whose cost is not passed on to the consumers and therefore increases the operating costs of the Company.

Management Response

760. The accounting officer submitted that the system losses remained high partially due to the expansion of the grid at low voltage in support of the government initiative of accelerated connectivity program including Last mile. The main strategic initiatives implemented during the period to mitigate against these losses were;

i) Infrastructure reinforcements to support the last-mile connectivity programs and expand capacity. This involved the establishment of primary substations, and medium voltage distribution lines to act as the backbone support for the connectivity projects.

ii) Implementation of a metering program focused on having all the industrial customers and SMEs on smart meters.

iii) Scaling up of the field campaign dubbed the 'War on Losses' focusing on prepaid non-vending issues (i.e. non-vends and zero vends) and billing issues (i.e. quality of meter readings) besides scheduled inspections of SMEs and large power

iv) Installation of energy accounting meters at KPLC regional boundaries. This was to complement the feeder meters that existed. Energy accounting w support focused interventions and loss reduction activities.

v) Progression of ongoing data clean up campaigns to completion.

Committee Observation

761. The Committee observed that the problem of power loss is still in existence and largely contributed to by the distance of the source of power and consumers due to the quality of transmission lines.

762. The Committee noted that there were a number of KETRACO projects that were started with the aim of reducing power loss but the projects have since stalled due to under-funding to KETRACO. These include;

a) Nanyuki-Isiolo substation

b) Rumuruti-Nanyuki substation

c) Lessos substation

d) Narok-Bomet substation

763. The Committee also observed that there is need to have new substations like Mariakani substation and Gilgil substation to ease pressure on the Suswa main power station by reducing the distance to the consumers hence reducing power loss.

Committee Recommendation

764. The Committee recommends that:

i) The Ministry of Energy and Petroleum to put all necessary measures to replace all medium voltage transmission lines with high voltage transmission lines to minimize on power losses in the system.

ii) The Ministry of Energy and petroleum and KETRACO should fast track the completion of the following stalled projects aimed at reducing power loses in the system;

a) Nanyuki-Isiolo substation

b) Rumuruti-Nanyuki substation

c) Lessos substation

d) Narok-Bomet substation

iii) The Accounting Officer should submit a progress report on implementation and completion of the projects in paragraph 773(ii) above within three (3) months upon adoption of this report.

37.0 Failure to Observe Guidelines on Board of Directors Meeting.

765. During the year under review, the Board of Directors had in its approved calendar a total of thirty-three (33) full Board and Committee meetings which exceeded a maximum number of six (6) recommended by the Office of the President Circular referenced OP/CAB.9/1A dated 11 March, 2020. Additionally, during the year under review, the Board held a total of eighty-nine (89) Committee meetings comprising forty-five (45) full Board meetings and forty-four (44) Committees' meetings, translating to a Board meeting every four days thus making the Board becoming operational in nature.

766. Further, review of the requests made to the Cabinet Secretary for extra meetings revealed only the extra meetings in the Board calendar were forwarded for approval. In addition, the requests did not have the justification, source of funds and budget implications as required in the circular. Further, six (6) of the requests for extra meetings, were approved by the Principal Secretary who is a Member of the Board Member instead of the Cabinet Secretary.

Management Response

767. The accounting officer submitted that the enhanced number of meetings were informed by the government driven reforms in the sector and specifically on the company, this included the Board engagements with the Presidential Taskforce on review of PPAs.

Committee Observation

768. The Committee observed that during the FY 2020/21, KPLC was undergoing turnaround strategies thus necessitating extra sittings by the Board.

769. The Committee observed that, despite getting the approval for extra sittings the management of KPLC did not provide sufficient documentations to support their explanation and the source of funds to support the extra meetings.

Committee Recommendations

770. Within three (3) months upon adoption of this report, the Accounting Officer to submit the supporting documents confirming approval of extra sittings by the Board to the OAG for verification failure to which the Board should be surcharged.

38.0 Lack of Annual Governance Audit

771. Review of records at the Company relating to Board activities revealed no evidence of the Board having undertaken an annual governance audit during the year under review. The audit is expected to address governance practices including leadership and strategic management, transparency and disclosure, compliance with laws and regulations, Board independence and governance, consistent shareholder engagement and value enhancement among others. It was therefore not possible to confirm the level of adherence to applicable laws, rules, regulations, and policies of the company. Management explained that the difference between the actual system losses of 23.95% and the allowed system losses of 19.9% is borne by the Company without any billing impact to the customers/consumers. This loss has, however, been persistent for the last four years.

Management Response

772. The Accounting Officer submitted that Pursuant to the Capital Markets Authority Circular No. 1 of 2020 dated 2.1.2020, Governance Audits are to be conducted once in every 2 years. Further, taking things in context, the Company was fully engaged in implementing the energy sector reforms as recommended by the Presidential Taskforce on the Review of Power Purchase Agreements and hence it was not tenable to undertake the governance audit noting the extensive nature of the recommendations comprehensively addressed the governance concerns.

Committee Observation and Recommendation

773. The Committee observed that at that particular time the company was undertaking major reforms and that subsequently, the company is currently undertaking the Governance Audit. Therefore, the matter stands resolved.

FINANCIAL YEAR 2022/2023

39.0 Material Uncertainty Relating to Going Concern

774. I draw attention to Note 2 (a) to the financial statements which discloses that the Company recorded a loss of Kes.4,433,856,000 during the year under review. In addition, the Company's current liabilities of Kes.132,275,488,000 exceeded its current assets of Kes.81,041,557,000 by Kes.51,044,683,000 (2022 - Kes.56,534,952,000). The Company has remained in a negative working capital position for the seventh consecutive year. The Board of Directors and Management have in the past and in the year under review, indicated strategic initiatives being undertaken to improve the financial results of the Company. However, these initiatives appear not to have yielded the intended results as at 30 June, 2023. As further stated in Note 2(a), this condition, along with other matters as set forth in the Note indicates existence of material uncertainty that may cast significant doubt on the Company's ability to continue as a going concern.

Management Response

775. During the period under review, the Company was experiencing working capital challenges primarily due to significant capital expenditure between 2014 and 2018, undertaken in support of the Government's universal electricity access agenda and generation expansion (5000MW+) program. Medium-term commercial borrowing was used to finance long-term infrastructure projects, thereby exacerbating the net current liability position. Furthermore, the rapid expansion of the low-voltage network contributed to increased distribution losses, resulting in reduced revenue. There were also delays in the timely review of retail electricity tariffs beyond the expiry of the control period, which led to suppressed revenue levels that could not cover the sector costs from generation to retail.

776. The Board and management undertook several key strategic initiatives to improve the financial health of the Company, these included

i) Stemming the increase in system losses during the financial year 2019/2020 and thereafter adopting a loss reduction path with a target of

0.5% annual reduction as prescribed by the regulator. This was to be achieved through various initiatives including; load balancing and optimal dispatch of generation as well as commissioning of new feeders to de-load heavily loaded feeders.

ii) Pursue roll-over of the existing money market debt facilities to ease pressure on cash flows and facilitate scheduled repayment of other commercial and guaranteed debt.

iii) Intensify debt collection and revenue protection though realignment of resources and the use of technology by deployment of smart meters on a gradual basis. This is in addition to launching of "Know Your Meter" and "Meter inspection" campaigns to identify and resolve illegal connections, un-metered supply and faulty meters. These campaigns were carried out using internal resources including all staff participating in field days.

iv) The Company had already restricted capital spending to critical projects and encouraged capital contributions from quoted customers and expedited the connection process for mutual benefit.

v) The Company also pursued an optimal balance between generation and electricity demand by engaging the key stakeholders. At the same time, it continued to enhance demand creation initiatives by focusing on premium customers and improving supply reliability; and

vi) There was also active engagement with the Regulator (EPRA) and other stakeholders on the critical need for a cost reflective tariff including the restructure of the life-line band and review of allowed system losses to reflect the grid dynamics.

777. In addition, the Company petitioned the Government for the release of funds amounting to Kes. 11.9 billion, owed to KPLC as at 30 June 2019, for the management, operation, and maintenance of the RES network. Further, the Board and Management sort government support through the Ministry of Energy and National Treasury in enhancing sustainability of the company and sector at large. The Company obtained waivers for breach of the current ratio for the second consecutive year and was cognisant of the fact that achieving the covenanted position on the ratios may be infeasible in one year. KPLC thus initiated discussions with key lenders on a potential review of the covenants as well as seeking on-lent debt repayment moratorium to provide leverage for commercial debt restructuring discussion. Despite the Company's declining

performance, it continued generating positive operating cash flows which indicated that it was still able to meet most of its working capital requirements.

778. In conclusion, the strategic initiatives implemented by the Board and Management along with interventions by the government have seen the company's financial position improve quite significantly, its working capital position has improved from a low of negative Kes. 75 billion in 2020 to negative Kes. 27 billion in 2024. They have also commenced the repayment of the GoK on-lent loans that were on a moratorium from March 2020 and reported a profit after tax of Kes. 30 billion in June 2024.

Committee Observation

779. The Committee observed that:

i) The management had made strategic changes in their operations which had greatly improved the organization's financial position;

ii) The company had generated a profit of Kes 30 billion in financial 2023/2024, thereby resulting in the lifting of the moratorium on debt repayment and dividends were paid to shareholders after a nine-year freeze; and

iii) the price of the company shares had significantly improved in the stock exchange market and there was an improvement in working capital and cash flows.

Committee Recommendation

780. The Committee recommends that the management should ensure consistency in implementation of the strategic measures to stabilise the financial position of the Company.

40.0 Long Outstanding Receivables from Other Government Entities

781. The statements of financial position and as disclosed in Note 21(b) to the financial statements reflects net current trade and other receivables balance of Kes.56,737,372,000 and a gross balance of Kes.83,175,666,000. Included in the current trade and other receivables gross balance is an amount of Kes.27,795,493,000 in respect of receivables from other Government entities. Review of these balances revealed the following anomalies and inconsistencies:

i) Receivables amounting to Kes.26,928,111,000 relate to a debt due from Rural Electrification Scheme (RES) which the Company administers on

behalf of the Government of Kenya. Management indicated that Rural Electrification Scheme (RES) are funded by the National Government and implemented by the Company on behalf of Ministry of Energy and Petroleum (MOEP). The Schemes under RES are considered sub-economic, given that their operational and maintenance costs exceed their revenues, and it was agreed that the Government will reimburse the Company any deficit arising from the Scheme. The resultant accumulated deficit is recoverable from the Government of Kenya (GOK) as stipulated in the 1973 Mercado Agreement signed between KPLC and the Government through the MOEP. As at the 30 June, 2023, no reimbursement had been made to cover the deficits despite a cabinet resolution to disburse Kes.19,400,000,000 to settle the RES losses.

ii) Included in the receivable amount is Kes.154,766,000 due from the Ministry of Energy and Petroleum, Kenya Electricity Generating Company PLC (KenGen), Geothermal Development Company (GDC), Rural Electrification and Renewable Energy Corporation (REREC), Energy and Petroleum Regulatory Authority (EPRA) and Nuclear Power and Energy Agency (NuPEA) which has been outstanding since 2015. The amount relates to media campaigns executed in November 2014 through electronic, print, and online media to gauge demand for 5000+ MW from existing and potential investors as had been directed by the then Cabinet Secretary for Ministry of Energy and Petroleum. Records at the Company indicates that the Ministry of Energy and Petroleum and its parastatals had agreed to share the costs of the integrated media advertising for investors power plan data gathering campaign. However, no evidence was provided to show how the Company ended up paying all the costs on behalf of the other entities.

iii) An amount of Kes.248,564,297 was due from Rural Electrification and Renewable Energy Corporation (REREC) for electrification of schools in rural areas. REREC contracted Kenya Power and Lighting Company to connect the schools in preparation of the laptop project in 2015. Although the Company completed the projects, this has not been acknowledged by REREC and remains unsettled.

iv) The receivables balance includes an amount of Kes.71,337,550 in respect of street lighting maintenance costs due from several counties for works done between 2016 and 2017. Management has not demonstrated how the amount will be recovered.

The Management has taken care of the probable loss that may result out of doubtful recoverability through and an Expected Credit Loss (ECL) in line with IFRS 9.

Management Response

782. The accounting officer submitted that;

i) The RES deficit of Kes. 26,928,111,000 is an accumulation of carried forward deficit Kes.19,355,162,721.06 plus current deficit of Kes. 7,888,330,187.49 less part repayment of Kes. 250,000,000 by GOK in the year 2022/23. Kes. 19,400,000,000 was initially provided in The MOEP Budget but was later removed on approval.

ii) The Company wrote to the MOE requesting the Cabinet Secretary to assist in demanding the sector agencies to honour their commitments and settle the outstanding debts. The communications with the concerned sector agencies and the MOEP were provided.

iii) The Debt of Kes. 248,564,296 due from REREC was outstanding as at the date of the report. The Company formally communicated to REREC in relation to this pending payment as provided.

iv) The Company has since stopped invoicing the County Governments and has subsequently sought MOEP approval for any County Street Lighting requirement. MOEP has since given consent for the implementation of Street Lighting projects utilizing funds allocated for the National Street lighting program.

Committee Observations

783. The Committee observed that:

i) The company faced a challenge on debt collection from electricity customers who were unable to meet their bill payment obligations in time due to the effects of Covid-19;

ii) The National Treasury had included an allocation of 5 billion as payment to KPLC.

Committee Recommendations

784. Within three (3) months of adoption of this report, the Accounting Officer to submit a status report on debt collection to the OAG for verification.

41.0 Foreign Currency Exposure and Uncompensated Forex Losses

785. The Company is heavily affected by the forex fluctuation owing to its payments of power purchase and the forex denominated loans. With a combined outstanding foreign currency obligation of approximately USD1 Billion comprising of 70% forex denominated debt and 30% power purchase obligations, the foreign exchange rate fluctuation impact in the financial year 2022/2023 was Kes.23 billion. The Company currently bears the difference between the actual forex rate used for payments and the Central Bank of Kenya (CBK) mean rate used by the regulator for the passthrough costs. There is no forex compensation mechanism to ensure that the market rate applied at the time of making payments is mitigated against the impact of the forex rate fluctuation.

786. The Company should also review its approach to power purchase contracting to mitigate against the significant foreign exchange exposure given its entire revenue is in local currency. This should include engaging existing power generators for sustainable currency related solutions that will resolve the accumulation of overdue obligations.

Management Response

787. The accounting office submitted that significant foreign currency exposure of Kes. 23 billion was a result of the drastic depreciation of the local currency against major international currencies. The Management took steps to address the forex exposure through partial prepayment of foreign currency denominated loans and also engaged some of the electricity generation companies to have their contracts denominated in local currency, some of the smaller IPPs agreed to this proposal. 70% of the debt book comprised of GoK onlent debt that was on moratorium during the period under review, this component of debt is entirely in foreign currency and hence formed a substantive part of the forex impact on translation to local currency.

788. Following the expiry of the moratorium, KPLC commenced the repayment of the GoK onlent debt in July 2024 and so far, Kes. 8.4 billion has been paid, thus reducing the forex exposure. Further, the Kes strengthened in the subsequent year and has remained steady thereby reducing the exposure. KPLC has also petitioned EPRA and the Ministry of Energy on the need to harmonize the forex

recovery basis with the market to safeguard the utility against forex losses as a result of recovery based on CBK rate. EPRA has directed that it will review the FX recovery framework in the new Tariff Control Period (beginning July 2026) to a forward-looking framework that reduces exposure of uncompensated realized Forex Losses.

Committee Observation

789. The Committee observed that:
   i) foreign currency exposure of Kes. 23 billion was a result of the drastic depreciation of the local currency against major international currencies;
   ii) the management had made partial prepayment of foreign currency denominated loans and also engaged some of the electricity generation companies to have their contracts denominated in local currency;
   iii) following the expiry of the moratorium, KPLC had paid Kes. 8.4 billion, thus reducing the forex currency exposure;

Committee Recommendation

790. The Committee directs EPRA to review the FX recovery framework in the new Tariff Control Period (beginning July 2026) to a forward-looking framework that reduces exposure of uncompensated realized Forex Losses;
791. Within three (3) months of adoption of this report, the Accounting Officer of KPLC should submit a status report on the loan repayment to the OAG for verification.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

42.0 Unmatched Passthrough Costs to Revenue

792. The statement of profit or loss and other comprehensive income for the year under review reflects revenue from contracts with customers and cost of sales amounting to Kes.190,974,954,000 and Kes.143,575,838,530 respectively. As disclosed in Note 7(a) to the financial statements, the revenue includes an amount of Kes.34,155,050,000 in respect of fuel cost charge. However, fuel cost collections from revenue as per the approved Energy and Petroleum Regulatory Authority (EPRA) rates amounted to Kes.57,335,015,682 resulting in a variance of Kes.23,179,965,682.

793. In addition, given that the fuel costs are passed to the customers, they are expected to match the recoveries. However, fuel cost recoveries from customers of Kes.34,155,000 exceeded the corresponding fuel costs of Kes.28,093,512,000 reported under cost of sales. According to Management, the mismatch was occasioned by power purchase costs recovery mechanism for future temporary power plants; geothermal steam charge and costs of other power plants; power purchase costs that had not been factored in the approved base or non-fuel tariffs issued in 2018; and variances between costs and revenues resulting from computed and the applied Fuel Cost Charge (FCC) in the previous year 2021/2022.

In the circumstances, the legality of inclusion of these non-related charges in the fuel cost charge in fuel cost recoveries could not be confirmed.

Management Response

794. The accounting officer submitted that the Fuel Energy Cost (FEC) pass through component is designed to recover the associated fuel costs incurred by Thermal (fuel fired generating power plants) power plants, power purchase costs associated with net power imports (Imports minus Exports) currently UETCL & EEU, and other costs relating to;

a) Future temporary power plants,

b) Geothermal steam charge as approved by the Authority (Olkaria I unit IV & V, Olkaria IV unit I & II and Sosian geothermal plants) and

c) Other power plants to be constructed in respect of which the Company shall enter into a Power Purchase Agreement. For the purpose of the constructed power plants the period being referred to covers after review of base tariff and before the next review.

The comparison of the Fuel costs with the FEC pass through is inaccurate considering that the pass through includes non-fuel costs as indicated above.

Legal Framework

795. Energy Act, 2019 section 11(c) gives EPRA several powers and among them; powers 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 a tariff adjustment. In relation to Base (non-fuel) tariffs Section 165(7) provides a review of the retail tariff every three years. Schedule of Tariffs, 2023 as published through the gazette notice no. 3899 dated 24th March 2023

provides for a review of pass-through costs every month. Schedule of tariffs, 2023 (page 6/10) part III on Pass Through Charges, Taxes and Levies gives an elaborate implementation procedure including the components allowed for recovery in relation to all pass-through costs. Applicable schedule of retail tariffs is provided.

796. The Gazetted Schedule of Tariffs, 2023 Part III (PASS THROUGH CHARGES, TAXES AND LEVIES), provides under the Fuel Energy Cost (FEC) a mechanism to recover power purchase costs associated with future temporary power plants, geothermal steam charge and costs of other power plants to be constructed in respect of which the Company shall enter into a power purchase agreement. In this regard, during the FY 2022/23 there were some power purchase costs that had not been factored in the approved base/non-fuel tariffs (Approved Tariffs in Nov 2018) and therefore these costs were allowed by the EPRA to be recovered through FEC pass-through mechanism. In the financial year 2022/23 there were plants that were not in the base tariff whose revenues were collected through the FEC as allowed in the Gazette notice, they included the following;

	Generating Power Plants	**2022/2023 (Kes.)**
1.	Olkaria V Capacity Charges	5,703,771,690.49
2.	Kipeto Energy Plc Energy Charges	5,180,103,299.64
3.	Cedate Solar	1,399,984,864.72
4.	Selenkei Solar	1,327,955,640.08
5.	Malindi Solar	1,238,915,794.32
6.	Kianthumbi SHPP	23,835,435.85
7.	Olkaria I Unit 6 Capacity Charges	3,294,857,094.04
8.	Alten Kenya Ltd Solar	856,753,705.41
9.	Ethiopia Imports (EEP)	1,992,068,785.03
	Total	**21,018,246,309.57**

Steam charge of Kes. 5,217,214,011.87 was also collected as part of FEC

The variance between Costs and revenues are as a result of the difference between the computed and the applied FEC. In the previous year 2021/22, there were arrears arising from the unmatched pass-through cost to revenue amounting to Kes. (7,460,920,522.83). Such arrears were collected during the year 2022/23.

797. In the year in review, there was a variation between computed and applied

	Jul-2022	Aug-2022	Sep-2022	Oct-2022	Nov-2022	Dec-2022	Jan-2023	Feb-2023	Mar-2023	Apr-2023	May-2023	Jun-2023
Computed FCC cts/k	503	521	397	407	320	381	387	313	390	414	368	320
Applied FCC cts/kW	463	463	679	709	636	712	718	659	830	390	438	449

FEC as explained above, to cater for the other items. The month to month computed and applied FEC is as tabulated below.

The foregoing demonstrates the recurring nature of this unmatched pass-through cost to revenue audit item that is well anchored by the current legal and regulatory framework. This audit item, however, remains external to KPLC which Management has no control.

Committee Observation

798. The Committee observed that the Company had implemented the initiatives to mitigate escalating power losses.

Committee Recommendation

799. Within three (3) months of adoption of this report, the Accounting Officer to submit a progress report on power loss reduction to the OAG for verification and to monitor the reduction of power loss.

43.0 Penalties on Overdue Invoices

800. The statement of profit or loss and other comprehensive income and as disclosed in Note 11(b) to the financial statements, reflects an expenditure of Kes.24,153,922,000 on finance cost. Included in this amount is Kes.1,120,143,000 relating to interest on late payment of invoices. This expenditure which resulted in the increase of the cost of sales, and negatively affected the Company's cash flows as well as profitability, could have been avoided with proper credit management. In the circumstances, value for money on the expenditure could not be confirmed.

Management Response

801. The accounting officer submitted that the late payment interest paid to KenGen is based the contractual PPA terms and the historical accumulation of the payable amount due to financial challenges facing KPLC. In the year under review, KPLC payments to KenGen were Kes. 1,126 million over and above the total invoice amount for the period in a deliberate attempt to reduce the overdue amount and hence lower the late payment interest. In subsequent years significant progress has been achieved in reducing the overdue power purchase obligation owed to KenGen and the IPPs and thereby reducing the late payment interest amount.

Committee Observation

802. The Committee observed that;

i) KPLC was paying off the loans from the payments it receives from County Governments and Parastatal;

ii) the delayed payments of funds had resulted to penalties.

Committee Recommendation

803. The Committee directs the Accounting Officer to formulate contractual agreements with the lenders with agreeable timelines for repayment of invoices to avoid accumulation of penalties.

804. Within three (3) months of adoption of this report, the Accounting Officer should submit a status report on repayment of the loans to the OAG for verification.

44.0 Procurement of Goods and Services

(a) Un-Procedural Purchase of Land

805. The Management procured a 10-acre land in Machakos County at a cost of Kes.75,000,000 for the construction of a substation to improve reliability and quality of electricity supply in Athi River and its environs. Management engaged a valuer to undertake valuation of the market price of the 10 acres. The valuer's report dated 13 April, 2011 gave the value of the land as Kes.40,000,000. This was communicated to the seller which also undertook its independent valuation and gave a valuation of Kes.70,000,000 in a report dated 7 September, 2011. However, Management failed to negotiate with the seller as required under the Company's policy on acquisition of the Company

properties and acquired the property at a price that was higher than the market value returned by the valuer it had earlier engaged of Kes.40,000,000.

806. In addition, purchase of the land had no approval from The National Treasury, Ministry of Energy and the Management Committee of the Company as required under Paragraph 1.2.3 (1) of the Guidelines for Management of Specific Categories of Assets and Liabilities and Clause 6.1 of the Company's Operating Procedures on Acquisition/ purchase of Company Property. Further, the land had been encroached by a third party who claimed to hold a court order in his favour. The Management indicated in a minute between the buyer and seller dated 31 May, 2022 of its reservation that the land had been encroached and requested the seller to give the land in vacant possession in accordance with the sale agreement. As a result, the Company could not proceed with fencing of the land and subsequent construction of the station.

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

Management Response

807. The accounting officer submitted that;

i) Network development including the need for new substations, is guided by the distribution masterplan based on energy load systems management approved by the Ministry of Energy. The substation referred to here was part of the Kenya Electricity Expansion Programme, a World Bank funded program across the country. The land acquisition component of the project was to be internally funded by KPLC.

ii) As part of the acquisition process, the Company commissioned a valuation of the parcel. The valuation returned a Market value of Kes. 40 million dated April 2011 for the 10 acres. East African Portland Cement (EAPC) commissioned a second valuation which returned a market value of Kes. 105 million dated September 2011. Kenya Power sought a third opinion and commissioned a valuation which returned market value of Kes. 110 million dated January 2012.

iii) Negotiations were held between KPLC and EAPC as per the below correspondences:

- Letter dated 14th April 2011 from KPLC to EAPC with a Kes. 40 million offers for the 10 acres parcel.

- Counter offer letter from EAPC to KPLC dated 9th November 2011 with an offer of Kes. 70 million.
- KPLC acceptance letter dated 14th November 2011 subject to internal approvals.

From the foregoing, a final purchase price of Kes. 70 million was agreed between KPLC and East African Portland Cement (EAPC) both government agencies. An additional Kes. 5 million was incurred as conveyancing and transfer costs.

iv) The land is surveyed and title registered under KPLC. A portion of the land (one side) is encroached through crop cultivation by others with no permanent structures constructed. We have referred the matter to national security agencies for intervention and resolution. Follow up is being carried out with security agencies to identify the person cultivating and support deterrent measures.

Committee Observation

808. The Committee observed that the land was purchased from the East African Portland Cement (EAPC) which is a government agency and that the amount agreed was Kes. 70 million.

809. The Committee further noted that the unoccupied eight acres which was still not yet fenced.

Committee Recommendation

810. Within three (3) months upon adoption of this report, the management should fence the eight acres of land to avoid invasion by third parties and submit a status report to the OAG.

45.0 Irregular Procurement of Spare Parts for Distribution Automation Systems

811. A tender for Purchase of spare parts for the Distribution Automation Systems (DAS) was awarded to a supplier at a cost of USD 432,925.21 (approximately Kes.52,816,876). Review of procurement process revealed that, Management used Request for Quotation documents instead of standard tender documents for goods under direct procurement as provided under Section 104(a) of Public Procurement and Asset Disposal Act, 2015. The quotation documents used had not provided for the technical specifications for the goods, and therefore, the

basis upon which the tender was evaluated could not be confirmed. In addition, the tender documents required the bidder to quote for nine (9) items. However, during evaluation and negotiations by the evaluation Committee, the bidder was awarded six (6) items after indicating that the Remote Terminal Unit (RTU) inner box for Load break switch with upgraded module of Gemini 3 will be supplied instead of the current Gemini 2.5. The initial quote had provided for fifty (50) pieces of the RTU at Kes.21,166,512 (USD 173,496.48). However, the price was increased to Kes.25,578,642 (USD 209,661) for the same items resulting in an increase in the costs of the spares by Kes.4,412,130 (USD 36,165).

812. Consequently, the evaluation Committee materially altered the original tender against the provisions of Section 75(1) of the Public Procurement and Asset Disposal Act, 2015, which should have been revised before the deadline of tender submitting period. In the circumstances, Management was in breach of the law.

Management Response

813. The accounting officer submitted that:

i) Distribution Automation System (DAS), was supplied, installed and commissioned in 2017 by Lucy Electric-UK. The umbilical cable, LBS, RMUs inner box and the RTUs must be compatible to the existing DAS to achieve the benefits of automation.

That due to Compatibility, standardization, Lucy Electric-UK are the only ones who could supply the RTUs that met our technical specification to ride on the existing SCADA system infrastructure. The tender was a direct tender to Lucy Electric-UK.

ii) The tender evaluation criteria used was for direct tendering despite using a template for request for quotation.

iii) The decision to award six (6) instead of nine (9) was based on the available budget of Kes. 50,000,000.

Committee Observation and Recommendation

814. The Committee observed that;

i) due to compatibility and standardization, Lucy Electric-UK are the only ones who could supply the RTUs that met the technical specification to ride on the existing SCADA system infrastructure;
ii) There was an upgrade of the Remote Terminal Unit (RTU) inner box for Load break switch with module of Gemini 3 supplied instead of the Gemini 2.5.
iii) there was a variation arising from amount tendered and actual amount paid of six (6) instead of nine (9) due to the available budget of Kes. 50,000,000; therefore, the matter stands resolved.

46.0 Failure to Prepare Financial Statements for a Donor Funded Project

815. Note 43(b) the financial statements reflects that the Company received funding from the World Bank through Credit No.5587-KE to support electricity modernization projects. As at 30 June, 2023, a balance of USD 68,266,159 equivalent to Kes.9,592,999,656 was outstanding in respect of the Loan. However, since inception of the project in 2015, Management of the Company have not prepared and submitted financial statements for the project as required in Clause 90.3 (1) of the subsidiary loan agreement between the Government of Kenya and The Kenya Power and Lighting Company PLC dated 29 July, 2015.

Management Response

816. The accounting officer submitted that the KEMP - IDA Finance Agreement provided that "*the recipient entity financial statements should be audited and submitted to the lender together with the management letter not later than six months after end of the financial year*". The KEMP -IDA Finance Agreement was provided to the Committee. KPLC has been submitting to the World Bank the audited financial statements with the management letter within the provided timeline. Furthermore, the company has incorporated a disclosure note within its financial statements. Below is an extract of the KEMP disclosure note;

(b) KEMP (IDA Credit No. 5587-KE) LOAN

The Company received funding from the World Bank through Credit No.5587-KE to support electricity modernization projects. Summary information on transactions under KEMP Loan during the two years ended 30 June 2023 and 2022 were as follows:

	2023 Shs'000	2022 Shs'000
At start of year	305,607	150,824
Amounts received during the year	155,730	354,503
Net interest income	5,038	2,429
Expenditure during the year	(363,578)	(202,149)
Balance at end of year	**102,797**	**305,607**

The closing balances shown above are included in cash and cash equivalents and represent balances in the World Bank funded Special Account No. 1400266765947 held at Equity Bank Limited. Included in the long-term borrowings is an amount of Shs 9,592,999,656 (US$ 68,266,159) (2021: Shs 5,908,612,988 (US$ 50,144,217) in respect of the amounts disbursed under the loan to date. The proceeds of the World Bank through Credit No.5587-KE have been expended in accordance with the intended purpose as specified in the loan agreement.

Furthermore, as per clause section II- B (2) of the agreement, Interim Financial Report (IFR) is submitted to the World Bank quarterly.

Section II- B (3)- complied by submitted KPLC audited FS every six months after Year end.

Committee Observation and Recommendation

817. The Committee observed that KPLC had complied with the requirements of Clause 90.3 (1) of the Subsidiary Loan Agreement between the Government of Kenya and KPLC by submitting its audited financial statements every six months after the year end. Further, the Committee noted that the project was completed in June 2023; hence the matter stands resolved.

47.0 Irregular Payment of Long Outstanding Payables

818. During the year under review, the Company paid one hundred and fifty-seven (157) invoices for services rendered in 2014 and 2017 for eight (8) suppliers at a total cost of Kes.488,714,883 which had not been paid earlier due to inadequate documentation. A committee appointed to vet and verify the invoices and deliveries in December, 2022 indicated that the failure to settle the invoices in a timely manner was as a result of breakdown of the payment process, non-submission or late submission of invoices by the suppliers, provision of goods without a valid framework agreement, lack of various requisite documents required for payment such as professional opinion, a valid contract, performance bond physical Local Purchase Orders (LPOs), physical goods received notes and inspection and acceptance reports. However, the committee recommended payment to the suppliers without the above cited

supporting documentation being provided, and a payment of Kes.488,714,883 was subsequently made.

819. Further, included in the committee recommendation for payment was an amount of Kes.11,625,919 in respect of a supplier who was not among the seven (7) the committee was mandated to verify and validate its invoices and delivery notes. The inclusion of this supplier in the committee report and the subsequent payment is therefore irregular and its validity could not be confirmed. Similarly, an invoice for one of the seven (7) suppliers amounting to Kes.835,200 was paid despite the invoice having not been validated by the verification Committee.

820. In addition, a prior verification of all pending payments done in 2019 and approved by the then Managing Director on 3 May, 2019 for payment included four (4) of the seven (7) suppliers for which outstanding invoices had been settled. However, earlier report did not indicate any outstanding invoices in respect of these suppliers for the stated period between 2014 to 2018. Further, review of vendor accounts for these suppliers in the accounting system did not have evidence that the invoices were posted prior to settlement in the current financial year which makes their existence doubtful.

In the circumstances, the value for money for the payables of Kes.488,714,883 could not be confirmed.

Management Response

821. The accounting officer submitted that the Company had a number of long outstanding obligations to supplier which had remained unpaid due to insufficient documentation. Records at KPLC stores confirmed that the goods were received and subsequently issued out for business. The MDs approval was thus sought to address the issue of inadequate documentation to settle the (7) suppliers as provided. The eighth supplier was not flagged for approval due to incomplete documentation, but because the contract had expired. Accordingly, the committee deemed a separate MD approval unnecessary. This supplier had already been included in the MD's original 2019 approval.

Committee Observation.

822. The Committee observed that the management's inability to pay the long outstanding debts was due to the material uncertainty relating to going

concern and a court case that had hindered payment of contractor's obligations amounting to Kes. 311million.

823. Further, the amount owed to the government of Kes. 875 million has not yet been paid.

Committee Recommendation

824. Within three (3) months of adoption of this report, the Accounting Officer should submit a status report on the payables to the OAG for verification.

48.0 Employee Costs

48.1 Irregular Payment of Exit Pay

825. A former Managing Director of the Company requested to disengage with the Company to pursue other engagements through a letter dated 3 August, 2021. The Board considered and approved the request on 11 August, 2021 and later approved payment of Kes.26,820,648 as final exit payment comprising of full compensation of the remaining contract period of fifteen (15) months. The payment was subject to approval by the Ministry of Energy, and The National Treasury who both granted approvals on 25 May, 2022 and 11 April, 2022. While not objecting to the payment, the National Treasury advised that the same be subjected to approval of the State Corporation Advisory Committee (SCAC). However, SCAC approval was not obtained prior to payment of the gratuity of Kes.26,820,648 as advised.

826. In addition, the payment contravened the Staff Regulations and Procedures which provides that if an employee resigns before the completion of his contract, he/she will have no entitlement to gratuity, or any terminal leave pay. Further, included in the exit pay was an amount of Kes.2,520,000 paid as payment in lieu of notice. However, the payment was irregular since it is only payable to an employee whose employment contract is terminated by the Company without giving notice. In this case, the former Managing Director resigned without giving a notice and ought to have paid the Company a notice of Kes.2,280,000.

In the circumstances, the regularity of Kes.26,820,648 exit pay could not be confirmed.

Management Response

827. The accounting officer submitted that the former MD&CEO separation from the company was based on mutual agreement between himself and the Board of Directors as indicated in his letter dated 3 August, 2021. In his letter of mutual separation, he indicated the package to be paid that is gross salary and gratuity up to end of contract, lieu of notice and outstanding leave days which the Board reviewed and approved. The mutual separation letter was provided. Based on approval from the Board of Directors the Company sought further approval from the Ministry of Energy, who granted the approval through a memo dated 11 April, 2022.

Committee Observation and Recommendation

828. The Committee observed that the exit was on mutual agreement between the former Managing Director and the Company and that The National Treasury and the Ministry of Energy had approved the payment. Therefore, the matter stands resolved

48.2 Acting Allowances Beyond the Limit

829. Review of the Company's employee records on appointments to acting positions and allowances paid thereof revealed that ninety (90) employees were appointed on acting capacity for long periods and continued to draw acting allowances beyond the stipulated six months' period. In some instances, some employees had been holding positions in an acting capacity for more than five (5) years, without obtaining special approval from Chief Manager, Human Resources and Administration as provided for in the Company policy. This is contrary to the provisions of the Company's staff regulations and procedures.

830. Additionally, some of the employees were appointed to act in positions that were two job groups higher than their substantive positions contrary to provisions of the Staff Rules and Regulations. Further, acting allowances to employees was paid from the first month of acting contrary to part IV (b) of the Company's Staff Regulations and Procedures which provides that no acting allowance will be paid in respect of the first two months during which an employee is acting.

In the circumstances, Management was in breach of Company policies and procedures on Human Resources.

Management Response

831. The accounting officer submitted that the Company has a number of staff who have acted beyond 6 months. This was attributed to different Government circulars that froze recruitment even at a time when the company was implementation the County Structure to be able to serve its customers effectively across the counties. Retiring staff and those leaving the organization for other reasons were not replaced over the period hence the need to have lower-level staff acting in positions of higher responsibility. However, any acting beyond six months is approved by General Manager, HR & Admin.

832. Before a staff is appointed to act considerations are made based on competencies, skills grading, abilities and experience except in exceptional circumstances. Management approved payment of acting allowance from the first month of acting in a meeting held on 16th June 2015. The management provided the paper seeking approval as well as the staff regulations.

Committee Observation

833. The Committee noted that management of KPLC had submitted approvals for forty-five (45) officers and the other forty-five (45) was not provided.

834. The Committee also observed that management had developed a policy on remuneration of acting officers to be paid within the first month and the policy was currently under review by the Public Service Commission.

Committee Recommendation

835. Within three (3) months of adoption of this report, the Accounting Officer should submit the documents for the forty-five-officer acting beyond the limit to the OAG for verification failure to which, they should be surcharged.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

49.0 Power Losses

836. The financial statements in Note 7(a) reflects electricity sales of Kes.120,186,026,000 and Kes.24,172,173,000 in respect of postpaid and prepaid electricity sales, respectively. Review of units of electricity purchased against units sold revealed a total of 13,290 in gigawatt-hours (GWh) purchased from power producers out of which 10,234 GWh were sold to customers resulting in an efficiency loss of 3,056 GWh or 23%. The industry regulator, Energy and Petroleum Regulatory Authority (EPRA) approved the Company to recover

from consumers system losses of up to 19.5% that is deemed to be normal loss. The excess of 3.5% power loss above the allowed loss constitutes inefficiency power loss which is borne by the Company thus increasing operating costs.

837. In addition, review of the power transmission data revealed that the losses occurred in the generation, distribution, transmission networks. However, KPLC does not breakdown losses arising from those networks which, if accurately determined, can be attributed, and be borne by respective power producers, distribution schemes under Rural Electrification and Renewable Energy Corporation (REREC) and Kenya Transmission Company Limited (KETRACO).

In the circumstances, effectiveness and efficiency in the pricing of the power supply could not be ascertained.

Management Response

838. The accounting officer submitted that the system losses was at 23% in the FY 22/23. Table below indicates the annual losses trajectory over the last five years to 2023. Focus was to ensure an annual downward trend is achieved going forward.

FY	**2018/19**	**2019/20**	**2020/21**	**2021/22**	**2022/23**
Units Purchased	11,491	11,462	12,102	12,653	13,290
Sales	8,825	8,773	9,206	9,813	10,232
% System Losses	23.70%	23.46%	23.95%	22.45%	23.00%

839. Technical losses are determined by the loading and the length of conductors in addition to loading level of transformers. Technical losses cannot be fully eliminated as there will always be inherent losses in any given power system. The increase in technical losses is attributed to rapid extension of the network from **236, 134** km in 2018/19 to **296,748** km in 2022/23 at low voltage, mainly courtesy of the Government funded last mile projects and also the high number of lightly loaded transformers in the rural areas. This is being mitigated through implementation of network reinforcement and loss reduction projects.

840. The high **transmission** losses are occasioned by the expansion of the network and existence of some network constraints affecting power dispatch which are

to be sorted by KETRACO through completion of pending critical projects. Some of these projects also have an impact on distribution losses. High commercial losses are being addressed through inspection of meters in all installations, replacement of faulty identified meters and metering of pending connections which had not been timely addressed due to lack of adequate meters whose procurement was affected by ligations. In addition, smart meters are being installed at large power and SMEs customers so as to capture real time consumption data and improve on loss reduction analytics.

Other initiatives in place are; - improving on Energy accounting at all levels and energy balance to identify areas of losses for timely interventions.

Segregation of System losses by voltage/type

Financial Year	**2021/22**	**2022/23**
Transmission losses	4.14%	4.27%
Distribution losses (Technical & commercial)	18.30%	18.73%
Total	**22.44%**	**23.00%**

Committee Observation

841. The Committee observed that the problem of power loss is still in existence and largely contributed to by the distance of the source of power and consumers due to the quality of transmission lines.

842. The Committee noted that there were a number of KETRACO projects that were started with the aim of reducing power loss but the projects have since stalled due to under-funding to KETRACO. These include;

(a) Nanyuki-Isiolo substation

(b) Rumuruti-Nanyuki substation

(c) Lesos substation

(d) Narok-Bomet substation

843. The Committee also observed that there is need to have new substations like Mariakani substation and Gilgil substation to ease pressure on the Suswa

main power station by reducing the distance to the consumers hence reducing power loss.

Committee Recommendation

844. The Committee recommends that:

i) The Ministry of Energy and Petroleum to put all necessary measures to replace all medium voltage transmission lines with high voltage transmission lines to minimize on power losses in the system.

ii) The Ministry of Energy and petroleum and KETRACO should fast track the completion of the following stalled projects aimed at reducing power loses in the system;

(a) Nanyuki-Isiolo substation

(b) Rumuruti-Nanyuki substation

(c) Lessos substation

(d) Narok-Bomet substation

iii) The Accounting Officer should submit a progress report on implementation and completion of the projects in paragraph 853(ii) above within three (3) months upon adoption of this report.

50.0 Delays in Completion of Customer Electricity Connection Projects

845. The statement of financial position and as disclosed in Note 16 to the financial statements, reflects work in progress balance of Kes.16,667,971,000. Included in the balance are projects for which customers had paid a total of Kes.12,079,656,000 in respect of electricity connections. However, twenty-one thousand two hundred and thirty-one (21,231) projects with a total capital contribution paid for by the customers of Kes.966,901,128 were yet to start with some of the projects in respect of two (2) customers having been created and paid for eleven (11) years ago. This is contrary to the Company's Customer Charter on connection of electricity which provides for timelines within which electricity connection for customers are to be carried out depending on the type of connection ranging from seven (7) days to twenty-eight (28) days.

846. Management therefore, continues to hold customer electricity connection fees in form of capital contributions amounting to Kes.12,079,656,000, as disclose in Note 28 (a) to the financial statements. Delayed connection of these customers denies them electricity and at the same time denies the

Company revenues. Management attributes the delays in completion of projects to wayleaves acquisition challenges leading to re-designs of some projects and sometimes abandonment of the same, non-availability of critical materials needed for construction such as cables, conductors, meters and transformers and suspension of the construction contracts with hired labour and transport contractors and on-going court cases.

847. In addition, review of customer electricity connection projects listed in work in progress revealed that twenty-one thousand, seven hundred and thirty-four (21,734) projects with capital contributions payment of Kes.3,048,656,972 which had no costs attributed to them as evidence that the projects have been undertaken but have been closed in the system and indicated as complete. Management did not provide explanations on how projects paid for by the customers can be completed and closed in the system without the Company using any materials to connect electricity for the customers. Further, three hundred and forty-nine (349) customers' projects initiated with a total expenditure of Kes.321,639,101 had no corresponding capital contribution by the customers, an indication of connecting customers without payment of the required connection fees.

In the circumstances, the effectiveness of controls in place to monitor customer connections could not be confirmed.

Management Response

848. The accounting officer submitted that:

Causes of delayed completion of projects

The delay in completion of projects was occasioned by some of the following challenges:

i) Wayleaves acquisition challenges leading to re-designs of some projects and sometimes abandonment of the same.

ii) Non – availability of critical materials needed for construction during the period under review. These include cables, conductors, meters and transformers.

iii) Suspension of the construction contracts with hired L&T contractors and on-going court cases.

iv) Implementation of the digitization process, which required more time to complete.

Committee Observations

849. The Committee observed that KPLC had received payments from customers but was yet to connect the customers; and

850. KPLC had connected some customers yet they had not paid the connection fee.

Committee Recommendation

851. Within three (3) months of adoption of this report, the Accounting Officer should expedite connection of the paid-up customers and submit a status report to the National Assembly and OAG.

51.0 Weaknesses in Project Management

852. Review of the project management practices and work in progress records at the Company revealed that as at 30 June, 2023, more than twenty-one thousand (21,000) projects with a total cost of Kes.16,629,134,000 were listed as ongoing in the Company's records. However, eight thousand five hundred and six (8,506) projects with a cost of Kes.14,257,200,696 were behind their respective execution schedules having been outstanding for between three (3) to thirteen (13) years. In addition, review of the Company's project management system revealed absence of a robust, documented risk assessment and project monitoring during project life cycles. Project delay risks were not identified and mitigated in time. Similarly, no monitoring through a matrix designed to assess project management controls and feed the information into a project risk register for action to take place.

853. Further, the Board and Management established a project management office in 2020 responsible for the coordination and guiding implementation of capital projects to ensure achievement of the expected business benefits. The projects management office was expected to maintain database and information of all capital projects under implementation. However, as at the time of audit, the database containing information of all capital projects under implementation maintained by the project management office had not been established. This led to lack of proper coordination and standardization of projects implementation activities resulting in duplicated, delayed or abandoned projects thus making the Company to incur extra costs either

directly or indirectly due to lost opportunities. Additionally, there was no project management framework and project management policy in place to guide and outline the essential elements in the management of projects to assist in conceptualization, stakeholder management, managing risks and maximizing business value derived from projects. Management indicated that they were in the process of developing project management framework and project management policy.

In the circumstances, existence of controls to monitor implementation of projects could not be confirmed.

Management Response

854. The accounting officer submitted that the Project Management Office (PMO) maintains a database and information of 145 major capital projects across Company that it coordinates, monitors and guides implementation. There are 15 capital projects identified and considered strategic that are tracked, monitored and reported to various stakeholders. Additional projects are at different stages of the process of being included to the central database at the Project Management Office. The draft Project Management Policy and Project Management Framework was going through approval process and expected to enhance standardization of project implementation, well defined performance measurement and reporting.

855. A budgetary allocation was approved to procure a project management tool that will integrate project portfolio management through centralized project monitoring and control. The project Policy, framework, project portfolios and approved budget were provided.

Committee Observation and Recommendation

856. The Committee observed that KPLC had established the Project Management Office (PMO) that maintains a database and information of all major capital projects across the country which coordinates, monitors and guides implementation. Therefore, the matter stands resolved.

52.0 Trade Receivables

52.1 Unpaid Electricity Bills

857. Analysis of post-paid billing data and payments for the financial year under review revealed that seven hundred and twenty-nine thousand, seven hundred and thirty-two (729,732) accounts were billed for electricity consumption

costing Kes.1,803,302,369 but had not made payments towards settling the bills. In addition, the accounts remained active despite disconnection work orders having been raised against them.

In the circumstances, the recoverability of the outstanding bills of Kes.1,803,302,369 is in doubt and Management has not indicated measures being taken to recover the same.

Management Response

858. The accounting officer submitted that the debt management and collection through enforcement measures such as disconnection require significant field manpower to effectively cover the breadth and width of the entire Country. The company had been experiencing staff attrition without replacement over recent years, hence exacerbating the challenge. Management enhanced field presence by deploying an additional workforce to pursue outstanding debt, also rolled out the implementation of smart meters on a phased approach to automate the management of customer accounts.

Committee Observation

859. The Committee observed that the unpaid electricity bills was owed mainly by other government agencies and that management had made significant progress to collect these debts over the years.

Committee Recommendation

860. Within six (6) months of adoption of this report, the Accounting Officers of government agencies that owe KPLC to pay the outstanding debts failure to which KPLC should disconnect the institutions;

861. Within nine (9) months of adoption of this report, the Accounting Officer should submit a status report on debt recovery progress of the unpaid electricity bills to the OAG for verification.

52.2 Pre-loaded Units Debt

862. An evaluation of pre-paid debtors revealed preloaded units receivable amount of Kes.81,652,643 that accrued since financial year 2012. Out of the amount, only Kes.6,700,123 has been settled representing only 8%. Despite the prepay records showing that the meters are installed, it is likely that the customers do not vend after the preloaded units ran out. Thus, the Company is unlikely to recover debt attributed to preloaded units of Kes.74,952,520.

In the circumstances, the effectiveness of controls in place to monitor meter activities could not be confirmed.

Management Response

863. The accounting officer submitted that the initially the pre-paid meters were pre-loaded with 30 units, this was reduced to 3 units. However, the tariff then had standing charges such that by the time some customers finished consuming the preloaded units they could not afford to pay the accrued standing charges and the pre-loaded debt. This led to the company lobbying EPRA to remove the standing charges in the billing concept (the revenue be accounted in the per unit cost). Further, the company adopted zero pre-loaded units policy by the year 2017 to address any re-occurrences.

Committee Observation

864. The Committee observed that KPLC had adopted zero pre-loaded units policy by the year 2017 to address the matter. Further, the Committee noted that the pre-loaded units debt had decreased significantly over the subsequent years.

Committee Recommendation

865. Within three (3) months of adoption of this report, the Accounting Officer should submit a status report on debt recovery of the pre-loaded units to the OAG for verification.

53.0 Power Outages as a Result of Unstable Renewable Energy Generation

866. The Company is heavily impacted by the variable renewable energy sources (solar and wind) due to their high level of instability or intermittency during the dispatch operations. These generation sources are continuously supported by other plants which are dispatched to meet the difference of generation dropped at any one time which in the final analysis means that the actual cost of generation is the cost of the intermittent source plus the cost of generation dispatched to stabilize the ensuing intermittency by meeting the generation shortfall. When there is a sudden rise in generation due to the intermittency, the power system also becomes unstable and leads to the excess generation above the demand and this also leads to poor power quality to customers. During these instabilities, parts of the power system goes off as part of the self-protective mechanisms of the power system and this leads to outages and therefore loss of revenue. There is need to have a cost-

effective stabilization mechanism for these variable generation sources that are currently on the grid and regulations put in place to ensure that all renewable energy generation sources are installed with their stabilization mechanisms as part of the power generation contracting requirements.

In the circumstances, the effectiveness of measures implemented to mitigate against power outages could not be confirmed.

Management Response

867. The accounting officer submitted that the PPA has provided measures as follows;

In the event that the Power producer shall, in accordance with the PPA, provide at a particular point in time (T) a one hour ahead forecast (being a forecast covering the period commencing T+1 hour and ending on T+2 ("Forecasted Period")) of the anticipated electrical energy to be generated by the Plant during the Forecasted Period ("Forecasted Net Electrical Energy"), the Power Producer shall curtail during the Forecasted Period the Net Electrical Output to the Forecasted Net Electrical Energy plus two (2) MW provided that if the Power Producer determines at a certain moment in time that it is able to produce and deliver more electrical energy than the Forecasted Net Electrical Energy, the Power Producer will notify the Buyer of such ability. KPLC will have the option ("Forecast Option") to take that additional amount of electrical energy by notifying the Power Producer accordingly, and if so, the Power Producer shall deliver such amount of additional electrical energy as instructed by KPLC and KPLC shall be required to pay for such additional electrical energy delivered in the manner set out in the PPA. If KPLC does not exercise the Forecast Option, the Power Producer should curtail the electrical energy above the Forecasted Net Electrical Energy plus two (2) MW. Where the Power Producer does not curtail (in the manner set out hereinabove) during the Forecasted Period the Net Electrical Output to the Forecasted Net Electrical Energy plus two (2) MW, then KPLC is not required to pay for such Net Electrical Output delivered that is in excess of the aforesaid Forecasted Net Electrical Energy plus two (2) MW ("Forecasting Excess Net Electrical Output").

868. The PPA further provides that when due to an approaching storm large fluctuations in power output of the Plant are likely to happen, the control room of the Power Producer will, as a matter of prudent operation, inform the dispatch centre and limit ramp down and ramp up speeds of the power output

to a maximum of 10 MW per minute through voluntary curtailment. Any lost production due to this voluntary curtailment will not be charged to KPLC.

From the Above PPA Provisions it is noted as follows;

i) That a renewable energy power producer can only export power to the grid in excess of the forecasted power only after KPLC consent is granted.

ii) In the event the renewable energy power producer declines to curtail the excess energy, the excess energy is not payable by KPLC.

iii) The renewable energy power producer is required to voluntarily curtail large fluctuations in power output of the Plant owing storm.

Committee Observation and Recommendation

869. The Committee noted that power outages resulted from fluctuations of renewable energy i.e. solar and wind plants and that management was implementing measures such as installations of battery storage in these plants to assist in stabilizing power during peak hours. Therefore, the matter stands resolved.

54.0 Unmetered Connections

870. An analysis of work requests from the data generated from Integrated Customer Management System (INCMS) revealed, that ten thousand, seven hundred and forty-five (10,745) new connections were awaiting metering for more than one year. Further, scrutiny of metering report revealed that meters booked against the work requests for new connections were picked from the regional stores but as at the time of the audit, they were yet to be installed. Notably, some meters booked and issued in 2018 were yet to be installed.

In the circumstances, the optimal utilization of the Company's resources could not be confirmed.

Management Response

871. The accounting officer submitted that:

Work Request Reference Classification	No.	Meaning of Classification.
Mother	4,545	These are work requests relating to last-mile schemes intended to meter several households. The work requests

References -		have prefixes (Z, C, B, G, D, S, F and U). Work requests under this category do not draw meters directly. Child references with prefix Y are created from these mother references to facilitate metering of each individual customer in the scheme. Upon completion of metering and payment of contractors, the work requests are capitalized.
Re-routing	861	These are work requests relating to relocation of network infrastructure due to road expansion/customer requests. The works requests have prefix T. Status of paid-up re-routing jobs was changed to pending construction with effect to 1st September 2022. Hence, any new re-routing jobs will no longer be captured under pending metering status. The 861No references which were registered prior to 1st September 2022 have since been moved to pending construction to correct the anomaly.
Customer Work Requests	21,188	Customer work requests are registered with prefixes P, A, E, Y, N, Q&M. Outlined below is the metering status of the customer schemes, 10,443No – Have since been metered. 10,745No – scheduled for metering and were to be completed by December, 2023

Committee Observations and Recommendations

872. The Committee observed that management had made significant progress to connect the unmetered customers.

873. However, there were more customers who were still unmetered and management was making progress to acquire more meters.

Committee Recommendation

874. Within three (3) months upon adoption of this report, the Accounting Officer should expedite connection of the unmetered customers and submit a status report on the progress to the OAG for verification.

3.4 KENYA ELECTRICITY GENERATING COMPANY PLC (KENGEN)

THE AUDITOR GENERAL'S REPORT FOR THE FINANCIAL YEAR 2021/2022, and 2022/2023

Overview of the State Corporation

875. The Kenya Electricity Generating Company PLC (KENGEN) is a state corporation under the Ministry of Energy and Petroleum, mandated to generate electricity through the development, management, and operation of power plants.

876. Parliament had examined the audit reports of KENGEN up to FY 2020/2021

FINANCIAL YEAR 2021/2022

1.0. Land Without Ownership Documents

877. The statement of financial position reflects right of use of assets balance of Kes.6,817,943,000 which, as disclosed in Note 17 to the financial statements, constitutes an amount of Kes.5,893,085,000 in respect of leasehold land. The balance includes a parcel of land measuring 12.39 hectares and valued at Kes.550,000,000 which did not have ownership documents or a title in the name of the Company. Management explained that the initial title deed was held under lien by a lawyer due to a dispute in legal fees with the original owners of the land. Further, information available indicate that the leasehold tenure of the land expired in 1991 but had not been renewed due to lack of the title deed. In the circumstances, the ownership of land valued at Kes.550,000,000 could not be confirmed.

Management Response

878. The Accounting Officer submitted as follows—

The parcel L.R. No. 12036 (CR-No. 13849) was a grant to East Africa Power & Lighting Company Ltd (EAPLC) by the Government of the Republic of Kenya on 1st April 1969., for Electric Power Station & accommodation of staff.

i) Following the restructuring of the Energy Sector in 1998, the generation functions were transferred and vested in KenGen PLC (formerly Kenya Power Company), while transmission and distribution were reserved and vested in Kenya Power and Lighting Company (KPLC) pursuant to The Principal Agreement on Transfer of Assets & Liabilities between KPLC & KenGen dated 29th June 2000 (Appendix 1a)

ii) Among the parcels of land earmarked for transfer to KenGen was LR. No. 12036 situated at Kipevu.
iii) The legal fees dispute between KPLC and its lawyer S. Thuo Muhia & Company advocates impeded the timely conclusion of the transfer process. The lawyer was engaged by KPLC to process new grants for some parcels of land whose leases had expired.
iv) However, KenGen on the 23rd of March 2023, secured a lease from the Ministry of Lands, in its name for 50 years from 1st April 1991. Guideline from the Commissioner of land on the period of lease is attached in Appendix 1b.
v) The Lease was then registered and a new Grant issued in favour of KenGen on 5th April 2023 for a term of 50 years. The original Certificate of Title is in our custody.
vi) The land was valued at Kes.1 billion as in May 2022.

Committee Observations

879. The Committee observed from the submission of the Accounting Officer that the land in question was transferred to the Agency following the restructuring of the energy sector in 1998, pursuant to the Principal Agreement on the Transfer of Assets and Liabilities between KPLC and KenGen.

880. Further, the Committee observed that KENGEN had secured a lease from the Ministry of Lands, in the name of the agency for 50 years commencing 1st April 1991, and that the original certificate of title was in the agency's custody.

881. The Committee observed that KPLC had an ongoing legal dispute with S. Thuo Muhia & Company Advocates concerning outstanding legal fees charged for processing new grants for some parcels of land including the land in question.

Committee Recommendation

882. Within six (6) months of adoption this report, the Accounting Officer should submit the status report of the legal dispute between KPLC and S. Thuo Muhia & Company Advocates to the OAG for verification.

2.0. Variances on Balance with Related Entities

883. As disclosed on Note 21 to the financial statements, the statement of financial position reflects gross amounts due from The Kenya Power and Lighting Company (KPLC) amounting to Kes.23,582,383,000 as billed from the

respective Power Purchase Agreements (PPAs) between the two companies. However, the financial statements for KPLC reflects a balance of Kes.23,147,261,000 resulting to a variance of Kes.435,122,000. Further, the statement reflects an amount of Kes.655,478,000 due to Geothermal Development Corporation (GDC) as disclosed on Note 37(b) to the financial statements. However, review of records held by GDC reflects an amount of Kes.730,058,000 resulting in a variance of Kes.74,580,000. In the circumstances, the accuracy of related balances could not be confirmed.

Management Response

a) The Kenya Power and Lighting Company (KPLC)

884. KenGen and KPLC reconciled the balances owed between each other to Kes.22,560,530,693.95 as at 30th June 2023. Attached is KPLC confirmation of the same and a reconciliation signed by both parties. The same balance is reflected in KenGen financials statement for the period ended 30th June 2023 under note 37 (a). Kes.22,560,530,693.95 & 30th June 2024

b) Geothermal Development Corporation (GDC)

885. The reconciliation was done, and the variance has since been agreed between KenGen and GDC. As at 30th June 2023, the amount owed to GDC in KenGen books note 37 (b) is Kes.2,212,437,352.04 while as per the attached GDC confirmation the amount is Kes.2,184,279,886.73. The difference of Kes.28,157,465.31 is the exchange rates used to convert the USD balances as per the attached reconciliation between KenGen and GDC.

Status: The audit matter is now closed.

Committee Observations and Recommendation

886. The Committee observed from the Accounting Officer's submission that KENGEN and KPLC had reconciled the amounts and agreed on a figure that was subsequently recognized in KPLC's books of account.

887. The Committee observed that the variances between KENGEN and GDC arose from exchange rate fluctuations and timing differences in the recording of transactions by the respective entities. The entities subsequently conducted a reconciliation and resolved the matter. Therefore, the matter stands resolved.

Emphasis of matter

3.0. Financial Assets held at Amortised Cost-Contract Asset

888. I draw attention to Note 18 to the financial statements which discloses financial assets held at amortised cost amounting to Kes.9,174,567,000. Included in financial assets is a contract asset as detailed at Note 18(b) to the financial statements amounting to Kes.4,595,112,000 relating to the Olkaria IV and I AU substation. The construction of the assets was done by the Company and completed in the year 2015. The asset has been utilized by Kenya Electricity Transmission Company Ltd (KETRACO) since completion in the year 2015 for evacuation of power from Olkaria to the National grid.

889. The asset construction and implementation agreement indicated that the Company was to sign a novation agreement with KETRACO that would govern the transfer of assets in fulfilment of obligations thereof. This was in line with the Kenya Electricity Transmission Company Ltd mandate as outlined in Sessional Paper No.4 of 2004, on Energy and Energy Act, 2016 to evacuate all power generated in the country to the national grid. However, by the time of conclusion of the audit, the novation agreement had not been signed even though the operation of the substation had already been transferred to KETRACO and therefore realisation of the asset is doubtful.

Management Response

890. The Novation Agreement relating to the Olkaria IV and I AU Substation was signed, and the National Treasury officially took over the associated loan as at 30th June 2024. Consequently, the Financial Asset Held at Amortized Cost – Contract Asset was extinguished in the financial statements for the year ended 30th June 2024.

Committee Observation and Recommendation

891. The Committee observed that the Novation Agreement had been signed, and the asset is currently under the management of KETRACO and the loan is being serviced by both the National Treasury and KETRACO. As a result, the related financial asset was extinguished in the financial statements of KENGEN for the year ended 30th June 2024; hence the matter stands resolved.

4.0. Non-Recognition of Power Tariff Reduction Contribution

892. During the year under review, a Presidential Directive was issued to the Energy Sector to implement a 15% tariff reduction for all customer categories, which was effected through Gazette Notice No. 64 dated 7 January, 2022. According to the framework agreed between the Ministry of Energy and Semi-Autonomous Agencies (SAGAs) in the electricity sub-sector, the SAGAs in the electricity supply chain comprising The Kenya Power and Lighting Company PLC (KPLC), Kenya Electricity Generation Company PLC (KenGen), Kenya Electricity Transmission Company Limited (KETRACO), and Geothermal Development Company Limited (GDC), were each to contribute through cost reduction initiatives to supplement Government support.

893. The Board of Directors agreed to contribute an amount of Kes.3,500,000,000 through fair reduction of invoices to The Kenya Power and Lighting Company PLC (KPLC) who would in turn transfer the benefits to consumers. KPLC implemented the tariff reduction from January, 2022 in line with the directive. However, Management of the Company did not implement the cost reduction measures as per the commitments, which implies that the reported revenues are overstated by Kes.1,750,000,000 which would have been the Company's contribution due to The Kenya Power and Lighting Company, PLC which has already implemented the full reduction on behalf of other Energy Sector players. In the circumstances, Management is in breach of the agreement.

Management Response

894. The amount of Kes. 3,500,000,000 relates to a full calendar year from January to December 2022. However, the Company's financial year runs from July to June. Consequently, the first Kes. 1,750,000,000 was recognized in the Financial Year 2023, with the remaining half recognized in the subsequent financial year, in line with our reporting periods. Furthermore, out of Kes. 3,500,000,000, KenGen paid KPLC Kes. 2,954,106,816 through a credit note as per the attached letter dated 16th June 2023. The balance of Kes. 545,893,184 was paid to KPLC through a tariff adjustment for Olkaria 1 power plant and Muhoroni GT that was approved by EPRA. Attached is a letter from EPRA confirming the same and tariff workings.

Committee Observation and Recommendation

895. The Committee observed that the Company contributed to the Power Tariff Reduction by making a direct payment of Kes. 2,954,106,816 to KPLC in June 2023, with a further Kes. 545,893,184 settled via a tariff adjustment. Therefore, the matter stands resolved.

5.0. Work in Progress – Feasibility Studies

896. The statement of financial position reflects work in progress balance of Kes.57,071,097,000 which, as disclosed in Note 15(a) to the financial statements Report of the Auditor-General on Kenya Electricity Generating Company PLC for the year ended 30 June, 2022 7 includes an expenditure of Kes.623,495,100 in respect of feasibility studies. However, eight (8) feasibility studies at a total cost of Kes.377,999,568 were conducted between five (5) to ten (10) years ago and were yet to be implemented as capital projects. Management has not explained the reason for delay in implementation of the projects. In the circumstances, the Company has not obtained value for money on expenditure of Kes.377,999,568 incurred on feasibility studies.

Management Response

897. The management of KenGen had instituted measures to fast-track implementation of projects that are deemed viable from the feasibility studies. Feasibility studies are a global international practice for financier funded projects to assess viability of a project. The National Treasury through Public Investment Management (PIM) 2022, states that all mega projects must be accompanied by a feasibility study before approval for implementation. The feasibility studies are done for the projects in the approved Least Cost Power Development Plan. (LCPDP). The procurement approach for feasibility study consultant varies depending on the source of funding for each feasibility study:

- Donor-Funded Studies: Consultants were procured in accordance with the respective donor's procurement guidelines and procedures, as stipulated in the financing agreements. These typically emphasize competitive international bidding and strict eligibility and evaluation criteria to ensure transparency and value for money.
- Internally Funded Studies: For studies financed using internal resources, consultants were procured in line with the provisions of the PPADA and regulations. This ensures compliance with national procurement standards, including open and competitive tendering, fairness, and accountability.

898. Feasibility studies often precede land acquisition to assess viability and secure interest from financiers. Delays in land acquisition are a known risk factor and KenGen has been taking a proactive approach to engage landowner very early in the process. Land acquisition typically follows confirmation of project viability and determination of size requirements. Below is a summary with a status update on the feasibility studies.

Table 1: Status update of the feasibility studies.

No.	Project	Details of Project	Year Started	Amount under review (Kes.)	Management Response
1	Marsabit Wind Project	Construction of a 100 MW Marsabit Wind project	2020	27,933,266.77	The amount relate to feasibility study fo construction of 1000MW Marsab Wind Farm to b implemented i phases. This stuc was finance through a technic grant from th Agence Françai de Développemer (AFD). Th consultant wc procured directly b AFD, the financin agency, th contract attache ***(Appendix 3 d).*** Feasibility stuc commenced in 202 and was complete in July 2023- b SOFRECO consultant. Th contract price wc Euro 642,989. Lan acquisition is i

No.	Project	Details of Project	Year Started	Amount under review (Kes.)	Management Response
					progress. Environmental an Social Impac assessment studie are ongoing. The Terms o Reference (ToR) ar given in **In the Least Co Power Developmer Plan (LCPDP) 202 2042, the project listed with Commercial Operational Dat (COD) 2028 fo phase I, 200MW.**
2	7 Forks Solar PV Plant	Development of a 42.5MW grid connected Solar Plant. Evacuation will be through existing 132kV Kamburu-Masinga transmission line. A three breaker 132 kV loop-in, loop-out switching station will be constructed.	2018	39,724,603.11	The study was ful funded through grant from th United States Trad and Developmer Agency. Th consultant K&I Advisors wc procured by USTD at a contract pric of USD 990,000 an the contract attached. The feasibility stuc commenced in 201 and was complete in 2018.

No.	Project	Details of Project	Year Started	Amount under review (Kes.)	Management Response
					The propose project hc undergone th requisite approva from MOEP and th National Treasury. Due diligence on th feasibility study hc been completed b the Project Financie Agence Français de Développemen (AFD). The project hc received cabine approval. The loa agreement hc been signe between KenGe and AFD. Procurement fc Consultancy Services/ owne engineer is i progress.
3	Meru Wind Phase I Feasibility study	Construction of a 80MW Wind Farm with the Evacuation Infrastructure to Isiolo Substation	2012	119,044,040.22	The project wc funded through a AFD grant. KenGe conducted th procurement process i accordance wit AFD guideline obtaining a N Objection from AF

No.	Project	Details of Project	Year Started	Amount under review (Kes.)	Management Response
					at each stage. Th consultancy contract wc awarded t Grontmij/Carl Br A/S – Denmark at contract price c Euros 467,450. The stuc commenced i February 2011an was completed i July 2012 Project delayed du to land acquisitio challenges; however, lan adjudication ongoing and onc this is completed th project will move t implementation stage.
4	Assessment on the performance of Ngong I Phase 3	Construction of a 10MW Wind Farm with the Evacuation Infrastructure to Kimuka Substation	2017	20,005,303.57	Terms of Referenc for acquisition of th consultant t conduct th feasibility study wer developed. A site visit with KF was conducted i December 2023. In a letter date

No.	Project	Details of Project	Year Started	Amount under review (Kes.)	Management Response
					October 2023, KCA requested for th relocation/ decommissioning c existing turbines an no furthe development on th proposed 10MW sit due to frequenc interference wit their navigatio equipment locate near the site.
5	Karura Hydro Power Plant	Construction of a 90MW Hydro power plant and reservoir with the Evacuation through breaking the Kiambere/Kamburu/ Rabai 220kV line and leading both ends to Karura on a Double Circuit line, and the installation of a 220kV outdoor single bus- bar system at Karura.	2014	163,428,143.04	The consultant fc this study wc procured internal and contrac awarded to Norke Engineers at a co of Euro 262,008 an Kes 18,951,848.0(The contract attached. The stuc commenced in 201 and was complete in 2015. Howeve due to delays i project implementation an changing social/environmenta contexts, update are necessar Karura Hydr

No.	Project	Details of Project	Year Started	Amount under review (Kes.)	Management Response
					requires update ESIA to inform th Resettlement Actio Plan. The projec preparation fc implementation is i in progress after a approval an support by MOE was granted as pe the attached letter. Procurement of Consultant t update ESIA studie to inforr Resettlement Actio Plan is in progress.
6	Prefeasibility study on the optimization of existing Hydropower Plants & Development of Pumped Storage Hydro in Kenya	Pre-feasibility Study	Mar-18	4,447,722.57	The pre-feasibili study was funde through a technic grant. The consultar was procure directly by AFD, th financing agenc The stuc commenced in 201 and was complete in 2019. The stuc was carried out EDF The full feasibili study w commence onc the National Treasu

No.	Project	Details of Project	Year Started	Amount under review (Kes.)	Management Response
					approves grar financing from AfD.
7	Raising of Masinga Dam	Raising of the Masinga from 1056.5 to 1058 meter above sea level to increase the energy storage capacity by 81GWh per year.	2018	3,416,488.39	This study wc financed through a AFD technical gran which also include the procurement c the consultant. Th contract attached. The contract wc awarded to ISL at cost of NOK1,753,08 and USD 159,28(The stuc commenced in 20(and was complete in 200 Predevelopment Admin Costs funde by KenGen. The feasibility stuc for raising Masing dam by 1.5 Mete to 1058 Mete above sea level hc been complete and projec implementation approval is i progress.

No.	Project	Details of Project	Year Started	Amount under review (Kes.)	Management Response
8	Feasibility study for rehabilitation of Olkaria I - 45MW	Rehabilitation of existing power plant. Existing evacuation.	2014	-	The consultant fo this study wa procured internal by KenGen in lin with publi procurement regulations contract attached. The study wa conducted b Power Engineers Inc – US at a cost of US 495,098.00 (Exclusiv of local taxes) an local taxe estimated at US 87,4250. The stuc commenced i January 2014 an was completed i September 2014. The Feasibility stuc confirmed viability o Olkaria Rehabilitation, th basis of which th procurement of a EPC Contract ha been negotiate and initialed. Procurement of EP contractor completed, an works are current ongoing c

No.	Project	Details of Project	Year Started	Amount under review (Kes.)	Management Response
					scheduled.

899. The Accounting Officer informed the Committee that projects are initiated based on their readiness, financing, MOEP approval and directives, and priority in the LCPDP. The Term of References (ToRs) define the purpose, structure and deliverables of the Project. The amount under review in the table above gives the detailed schedule outlining the projects and their costs. The Cost of Olkaria1 Rehabilitation was excluded since project is under construction and the costs has been transferred to the project.

Committee Observation

900. The Committee observed that the projects had been implemented and most of them were work-in-progress.

Committee Recommendations

901. The Committee recommends that the matter remains unresolved because the projects are yet to be completed.

6.0 Non-Compliance with Recruitment Policies and Procedures

902. Review of human resource records indicated that the Company had recruited a total of ten (10) employees during the financial year 2020/2021. Out of the ten newly recruited employees, four were graduate engineers, whose recruitment process commenced in the financial year 2020/2021. Review of the sourcing and selection process revealed that the shortlisted candidates were sourced from the human resource database instead of job advertisement as prescribed in the Human Resource Policies and Procedures. Further, a total of twenty-eight (28) graduate engineers were sourced in a similar manner in the financial year under review. Failure to advertise for the positions not only contravenes the provisions of the Company's Human Resource Policies and Procedures, but also violates the values and principles of public service as outlined in Article 232(1) of the Constitution, which include affording adequate and equal opportunities for appointment at all levels of the public service. In the circumstances, Management was in breach of the law.

Management Response

903. KenGen was contracted to carry out a drilling labour contract in Ethiopia and Djibouti, the contract demanded immediate mobilisation of our staff to the project site. This required urgent recruitment of specialised engineers for the assignment. The contract stipulated strict timelines which had to be met, failure to which, the company would be in breach of the contract thereby not fulfilling its performance obligation that could have led to cancellation or reputational damage of the company. Due to the urgency of the exercise, management opted to shortlist candidates from its HR database to ensure there is no gap in executing operations within Drilling and Operations Departments.

904. In regard to the recruitment of four (4) graduate engineers, thirty-five candidates were interviewed for Electrical Engineer (12) and Mechanical Engineer (23). Out of the twelve (12) Electrical Engineers interviewed, four (4) were selected, similarly out of the twenty-three mechanical engineers interviewed, six (6) were selected as graduate Engineers. In regard to the recruitment of twenty-eight (28) graduate Engineers, ninety-five (95) candidates were interviewed. The composition was Electrical Engineer (50) and Mechanical Engineer (45). Out of the 50 Electrical Engineers interviewed, seventeen (17) were selected, similarly out of the forty-five (45) mechanical interviewed, eleven (11) were selected as Graduate Engineers.

905. Our internal policy and procedure document specifically Ref: CRP/HRA/HRS/OP/2a dated 1st July 2020 guided in clause V as follows "The sourcing of candidates may be done through a job advertisement or the Human Resource Database''. After sourcing the candidates from the HR database due recruitment process was followed and onboarding of the candidates was done by conducting a verification of the certificates and medical checkups. KenGen continues to comply with its Human Resources and Administration policies and procedures, and currently all positions are now advertised internally for career growth of employees or externally for new positions in case of lack of internal capacity.

List of thirty-eight (38) employees

Summary (County)			Summary (Ethnicity)			Summary (Gender	
County	No.		Ethnicity	No.		Gender	No.
Embu	1		Kalenjin	5		Female	14
Homa Bay	3		Kamba	4		Male	24

Kajiado	3		Kenyan Arab	1		**Total**	**38**
Kakamega	1		Kikuyu	10			
Kericho	1		Kisii	2			
Kiambu	2		Luhya	6			
Kisii	1		Luo	5			
Kisumu	2		Maasai	3			
Machakos	1		Meru	1			
Makueni	2		Samburu	1			
Meru	1						
Mombasa	2						
Murang'a	1						
Nairobi	2						
Nakuru	4						
Nandi	1		**Total**	**38**			
Narok	2						
Nyamira	1						
Nyandarua	1						
Nyeri	1						
Samburu	1						
Uasin Gishu	2						
Vihiga	2						
Total	**38**						

Committee Observation and Recommendation

906. The Committee observed that the Company had applied its Human Resources Policies and Procedures, 4(b) which allows for recruitment of employees either through its database or competitive sourcing; hence the matter stands resolved.

FINANCIAL YEAR 2022/2023

The Auditor-General issued a qualified audit opinion on the grounds highlighted below.

Emphasis of matter

7.0 Financial Assets Held at Amortised Cost-Contract Asset

907. I draw attention to Note 18 (d) to the financial statements which discloses contract asset held at amortised cost amounting to Kes.5,347,560,000 relating to the Olkaria IV and I AU substation. The construction of the assets was done by the Company and completed in the year 2015. The asset has been utilized by Kenya Electricity Transmission Company Limited (KETRACO) since completion in the year 2015 for evacuation of power from Olkaria to the National grid.

908. The asset construction and implementation agreement indicated that the Company was to sign a novation agreement with KETRACO that would govern the transfer of assets in fulfilment of obligations thereof. This was in line with the Kenya Electricity Transmission Company Ltd mandate as outlined in Sessional Paper No.4 of 2004, on Energy and Energy Act, 2016 to evacuate all power generated in the country to the national grid. However, by the time of conclusion of the audit, the novation agreement had not been signed even though the operation of the substation had already been transferred to KETRACO. There have been ongoing discussions for the National Treasury as per letter referenced DGIPE/loans/84 dated 21 August, 2023 to take over the loan in respect to this asset and facilitate full transfer of the asset to KETRACO. As at the time of the audit the agreement with the National Treasury was yet to be concluded.

Management Response

909. The Novation Agreement relating to the Olkaria IV and I AU Substation was signed, and the National Treasury officially took over the associated loan as at 30th June 2024. Consequently, the Financial Asset Held at Amortized Cost – Contract Asset was extinguished in the financial statements for the year ended 30th June 2024.

Committee Observation and Recommendation

910. The Committee observed that the Novation Agreement had been signed, and the assets were being managed by KETRACO and the loan being serviced by both the National Treasury and KETRACO. As a result, the related financial asset was extinguished in the financial statements of KENGEN for the year ended 30th June 2024 hence the matter stands resolved.

8.0 Impairment of Property, Plant and Equipment

911. The statement of profit or loss and other comprehensive income includes a net impairment charge amounting to Kes.4,980,578,000, as recorded in the other comprehensive loss, and Kes.899,760,000 recorded in profit or loss as disclosed in Note 10(g). These amounts relate to provisions made for assets that have been deemed as impaired by the Company. Included in these amounts are Kes.1,899,235,000 and Kes.200,888,000 respectively, that represent full impairment of Muhoroni power station. The Power Purchase Agreement (PPA) for this plant expired in April, 2023 and is currently under negotiation for extension. Evidence obtained during the audit indicated that the negotiations are ongoing for an extension of the PPA for a period of two years, with a Report of the Auditor-General on Kenya Electricity Generating Company PLC for the year ended 30 June, 2023 2 Report of the Auditor-General on Kenya Electricity Generating Company PLC for the year ended 30 June, 2023 3 clearance from the Ministry of Energy as per letter referenced MOE/CON/1/69 dated 23 August, 2023. However, the effect of this potential extension has not been factored in determining the level of impairment that has been recorded in the financial statements as Management is of the opinion that the extension is uncertain since the plant has been idle and off grid since April, 2023 to date.

Management Response

912. The impairment of the Muhoroni Power Station was based on the status of the Power Purchase Agreement (PPA) which expired in April 2023. Although negotiations for a one-and-a-half-year extension are ongoing and a clearance has been obtained from the Ministry the extension had not been finalized as at 30th June 2023. Management therefore applied a prudent approach in recognizing the impairment, which will be reassessed upon conclusion of the PPA extension. However, the PPA renewal is at its final stages of approval and once the extension is finalized, Management will reassess the impairment in line with IFRS Accounting standards requirements.

Committee Observation and Recommendation

913. The Committee observed at the time of examination, that the Power Purchase Agreement (PPA) had been renewed; therefore, the matter stands resolved.

3.5 NUCLEAR POWER AND ENERGY AGENCY (NuPEA)

FINANCIAL YEARS 2018/2019 TO 2021/2023

FINANCIAL YEAR 2018/19

1.0 Budget Control and Performance

914. The statement of comparative budget and actual amounts reflects final revenue budget and actual on comparable basis of Kes.597,270,000 and Kes.518,166,683 respectively resulting in an under funding of Kes.79,103,317 or 13% of the budget. Similarly, the Agency spent an amount of Kes.527,919,684 against an approved final budget of Kes.597,270,000 resulting in an under-expenditure of Kes.69,350,316 or 12% of the budget. The underfunding and under expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

915. The Accounting Officer informed the Committee that out of the approved exchequer budget of Kes.597,270,000, the Agency received Kes.509,984,600, resulting in a shortfall of Kes.80 million. The amount of Kes.80 million was budgeted under the parent Ministry's Appropriation in Aid (AIA). This amount was not realized and therefore was never remitted to the Agency.

Committee Observation and Recommendation

916. The Committee observed that the budget shortfall resulted from the Parent Ministry's failure to remit the allocated funds, which was beyond the limits of the Accounting Officer. Therefore, the matter stands resolved.

2.0 Incomplete Fixed Assets Register

917. As disclosed under Note 14 to the financial statements, the financial position reflects property, plant and equipment with a net book value of Kes.52,578,525. However, the review of the detailed fixed assets register revealed that the Agency had not maintained a comprehensive register reflecting the cost, disposals, depreciation, accumulated depreciation, location of the asset, tagging and officer responsible for each asset. It has not, therefore, been possible to determine the status of these assets and whether proper custody and safeguard of assets have been put in place.

Management Response

918. The Accounting Officer submitted that the Agency maintains a Fixed Assets Register that records key details such as the date of purchase, asset tagging, and location. This register is managed by the Human Resource & Administration Department to support operational oversight and physical asset control. The register was regularly updated as and when the Agency acquired new assets and or disposed of others. For financial reporting purposes, the Finance Department separately tracks asset costs, classifications, purchase dates, and depreciation charges using the Sage Accounting System, ensuring accurate calculation and reporting of depreciation in line with accounting standards. Following the auditor's recommendation, the Agency has developed and maintains a fixed asset register following the specified parameters.

Committee Observation and Recommendation

919. The Committee observed that the Agency had developed a comprehensive fixed asset register that was operational and regularly updated. Therefore, the matter stands resolved.

3.0 Unfunded Employee Gratuity

920. As disclosed under Note 16 to the financial statement, the statement of financial position reflects accrued employee gratuity amounting to Kes. 52,128,879. It was observed that Management has opened a separate bank account for the purpose of managing the accrued gratuity. However, Management has not set aside and transferred any funds into the bank account, for purposes of payment of the accrued gratuities, for three (3) years. Consequently, I am unable to confirm the existence of the gratuity amounts for all the employees is safeguarded. Management Response The Agency held an account with National Bank which was designated for staff gratuity. At the time of audit that account was not funded since the Agency did not have actual funds for the same. This issue was resolved in the financial year 2021/22 when the Agency was able to secure requisite funding from the exchequer for that purpose.

Management Response

921. The Accounting Officer submitted that at the time of audit, that account was not funded since the Agency did not have actual funds for the same. This issue was resolved in the financial year 2021/22 when the Agency was able to secure requisite funding from the exchequer for that purpose.

Committee Observation and Recommendation

922. The Committee observed that the employee gratuity bank account received funding in the 2021/2022 financial year and paid pending employee gratuity hence the matter stands resolved.

FINANCIAL YEAR 2019/20

4.0 Budgetary Control and Performance

923. The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kes.903,224,500 and Kes.907,861,250 respectively resulting in an under-funding of Kes.4,636,791 or 5% of the budget. Similarly, the Agency expended Kes.750,428,791 against an approved budget of Kes.903,224,500 resulting in an under-expenditure of Kes.152,795,709 or 17% of the budget. Although the Agency exceeded the budgeted receipts by 5%, the underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

924. The Agency had planned and budgeted for the said activities in the financial year. However, due to the effects of Covid-19 pandemic some of the planned activities could not be implemented.

Committee Observation and Recommendation

925. The Committee observed that the budget shortfall resulted from the Parent Ministry's failure to remit the allocated funds, which was beyond the limits of the Accounting Officer. Therefore, the matter stands resolved.

5.0 Incomplete Fixed Assets Register

926. As disclosed in Note 14 to the financial statements, the statement of financial position reflects property, plant, and equipment with a net book value of Kes.50,388,458. However, the Agency did not maintain a complete register of assets detailing cost and dates of acquisition, disposals, depreciation, accumulated depreciation, location of the assets, tagging and officer responsible for each asset. In the circumstances, it has not been possible to determine whether the Agency has effective mechanisms to safeguard its assets.

Management Response

927. As noted in A (2) above, the Agency initially relied on a register managed by the Human Resource & Administration Department to support operational oversight and physical asset control of assets together with the Sage accounting system. However, after the Auditor raised the issue in FY 2018/9 management engaged a consultant to develop a live Asset register as per the provision of IPSAS 17 and PFM regulations. The Register was developed and was put in place in that year.

Committee Observation and Recommendation

928. The Committee observed that the Agency had developed a comprehensive fixed asset register that was operational and regularly updated. Therefore, the matter stands resolved.

6.0 Lack of Financial Expert in the Board of Directors

929. The *Mwongozo* Code of Governance for State Corporations outlines governance principles on appointment of Directors to State Corporations. The principles require at least one Board Member to be a financial expert, with necessary qualifications and expertise in financial management or accounting and in addition, be a bona fide member of a profession compliant with the requirements of the profession`s membership. However, biodata of the Agency`s Directors serving during the year under review, indicated that none possessed financial management expertise as defined in the *Mwongozo* principles. In the circumstances, the Board may not have the necessary competency mix to form the required Board Committees especially the Board Audit Committee.

Management Response

930. In the FY 2019/20, the Agency did not have a person with financial expertise within the Board as observed by the Auditor. This matter had been noted by the Board Audit Committee and was raised to the Full Board for action. The same was remedied in FY 2021/2 after it had been raised with the relevant authorities.

Committee Observation and Recommendation

931. The Committee observed at the time of examination that the Board was properly constituted with a financial expert appointed in the FY 2021/2022. Therefore, the matter stands resolved.

FINANCIAL YEAR 2020/21

7.0 Property, Plant and equipment

932. The statement of the financial position reflects property, plant and equipment net book value balance of Khs.56,376,746 which, as disclosed in Note 15 to the financial statements is net depreciation charge amounting to Khs.11,594,359. However, review of computation on the depreciation charge indicates that the Agency applied a different depreciation charge for motor vehicles, office equipment computers and intangible assets which differed with the rate prescribed in the depreciation Policy as summarized below: Asset Classification Policy Rate % Financial Statements Reporting Rates % Motor Vehicles 20 25 Office Equipment 17.5 12.5 Computers 30 33.33 Intangible Assets - 10 In the circumstances, the accuracy of the property, plant and equipment balance of Kes.56,376,746 could not be confirmed.

Management Response

933. The Accounting Officer acknowledged the variances stating the variances arose because, in the year under review, the Agency applied depreciation rates prescribed under the Income Tax Act, rather than those prescribed in the Agency's finance manual. This anomaly was rectified in FY 2021/22 through review of the Agency's Financial Manual.

Committee Observation and Recommendation

934. The Committee observed that the anomaly on the depreciation of assets had been corrected and the agency updated their financial manual. Therefore, the matter stands resolved.

8.0 Unsupported Dormant Bank Account

935. The statement of the financial position reflects cash and cash equivalent balance of Kes.222,346,051 which as disclosed in Note 13 to the financial statements includes a balance of Kes.47,559 held in a local commercial bank but has been dormant for a long time. However, bank certificate supporting the balance was not provided for audit verification and the Agency continues to incur interest and ledger fee for the maintenance of the account and ought

to have been closed. In circumstances, the accuracy of the amount of Kes.47,559 held in the dormant bank account could not be confirmed.

Management Response

936. The Accounting Officer informed the Committee that the dormant bank account was closed through a Board Resolution passed on 20th July, 2023.

Committee Observation and Recommendation

937. The Committee observed at the time of examination that the bank account was closed. Therefore, the matter stands resolved.

9.0 Unsupported Expenditures

938. The statement of financial performance reflects use of goods and services balance of Kes.290,979,902 which as disclosed in Note 13 to the financial statements includes an amount of Kes.83,057,357 spent on resource development for the Nuclear Power Programme. The balance constitutes an expenditure amounting to Kes.67,461,400 on assorted items which did not relate to resource development activities and were not supported with approval for reallocation of funds while amount of Kes.1,619,860 was incurred on participation expenses which was not supported with details of the participants. Management did not also provide evidence that the goods were procured competitively as required by the Public Procurement and Asset Disposal Act,2015. In the circumstances, the regularity of the expenditure of Kes.67,461,400 could not be confirmed.

Management Response

939. The Accounting officer submitted as follows—

a) The figure of Kes.67,461,400 expended under resource development for the NPP was budgeted as follows:
    i) Supplementary Budget 1 of Kes.45,000,000
    ii) Supplementary Budget 2 of Kes.26,000,000
b) The procurement of the items under the head of resource development for the NPP was through restricted tendering as allowed under section 102 of the Public Procurement and Asset Disposal Act, 2015.

Committee Observation and Recommendation

940. The Committee observed that at the time of examination, the Accounting Officer had provided documents to support the unsupported expenditures. Therefore, the matter stands resolved.

10.0 Budgetary Control and Performance

941. The statement of comparison of budget and actual amounts for the year ended 30 June 2021, reflects total budgeted receipts of Kes.949,494,208 against actual receipts of Kes.941,495,529 resulting in a revenue shortfall of Kes.8,001,321 or 1% of the approved budget. However, the statement reflects final expenditure budget and actual on comparable basis of Kes.949,494,208 and Kes.779,212,058 respectively resulting in an under-expenditure of Kes.170,282,150 or 18% of the approved budget. In the circumstances, the Agency's activities may not have been implemented as per the approved work plan and budget.

Management Response

942. The under-expenditure on goods and services was primarily attributable to reduced operational activities resulting from Government-imposed COVID-19 restrictions. These restrictions limited the Agency's ability to fully implement its planned programs and work plans during the year, thereby negatively affecting budget absorption levels.

Committee Observation and Recommendation

943. The Committee observed at the time of examination that, the disruption by the Covid-19 pandemic affected the roll out of planned activities; hence the matter stands resolved.

11.0 Non-Preparation of Financial Statements for the Fund

944. As disclosed in Note 13(b) to the financial statements, the statement of the financial position reflects transfers to the Staff Mortgages and Car Loan amounting to Kes.287,285,000. According to Management, these transfers are made to Stima Sacco, which operates the Fund on behalf of the Agency. However, the verification of the amounts held by Stima Sacco amounted to Kes.223,870,000 resulting in unexplained variance of Kes.64,415,000. Management has not prepared separate financial statements for the Fund contrary to Section 84(1) of the Public Finance Management Act,2012. In the circumstances, Management was in breach of the law.

Management Response

945. The Kes.64,415,000 variance was as a result of the fact that some of the mortgage facility was being held with Development Bank of Kenya. That amount was later transferred to Stima Sacco in the FY 2021/2. Following the observation of the auditor Management has since the FY 2023/4 been preparing separate financial statements for the car loan and mortgage schemes after being advised and guided.

Committee Observation and Recommendation

946. The Committee observed at the time of examination that the Agency had a separate financial statement for the mortgage facility commencing from FY 2023/24. Therefore, the matter stands resolved.

12.0 Delayed Consultancy Services

947. Review of records revealed that during the year under review, Management awarded a contract to a firm for the revaluation of assets and preparation of the asset register(s) at a contract sum of Kes.3,135,000. However, the revaluation of assets and preparation of the asset register(s) had not been completed at the end of the year. Consequently, and as previously reported, the Agency did not maintain a comprehensive fixed asset register detailing the costs, dates of acquisition, disposals, accumulated depreciation, location of the assets and the unique identifier such as tagging code and the officer currently responsible for each asset. In the circumstances, the Agency did not obtain value for money on the expenditure of Kes.3,135,000 on the asset revaluation and preparation of the asset register(s).

Management Response

948. The development of the Fixed Asset Register and the asset revaluation exercise were affected by COVID-19 Government restrictions imposed during the first half of the FY 2020/2021. The consultancy engagement continued in the second half of the year as restrictions eased, and the exercise was successfully finalized in the subsequent financial year.

Committee Observation and Recommendation

949. The Committee observed that the consultancy services were fully rendered and the fixed asset register developed was updated; thus, the matter stands resolved.

13.0 Irregular Issuance of Imprest

950. The statement of the financial position reflects receivables from non-exchange transactions balance of Kes.112,419,045. Included in the balance is an amount of Kes.4,376,485 in respect of staff imprests. Out of this balance, an amount of Kes.3,992,365.75 was issued as imprest to the Board of Directors who are not employees of the Agency. Further, there was no evidence that the imprests were surrendered as required by Regulation 93(5) of the Public Finance Management Regulation,2015. In circumstances, Management was in breach of the law.

Management Response

951. The Accounting Officer submitted that, in line with the Mwongozo Code of Governance, Board members are entitled to remuneration for their services in accordance with prevailing legislative provisions and guidance from the relevant authorities. The imprests issued to Board members was to facilitate travel and other expenses incurred while attending to the Agency's official business. In line with established procedures, these imprests are required to be fully accounted for by members upon completion of their official assignments. As at the close of the financial year, a number of Board members were still engaged in official assignments (safaris) and were therefore unable to account for the issued imprests before year-end. However, the outstanding imprests were subsequently accounted for, with the necessary supporting documentation provided.

Committee Observation and Recommendation

952. The Committee observed at the time of examination that the outstanding imprest had been surrendered by the former Board members and the supporting documentation had been availed to the OAG for verification; hence, the matter stands resolved.

14.0 Procurement of an Enterprise Resource Planning (ERP) Software

953. The statement of the financial position reflects intangible assets balance of Kes. 18,043,170 which was as disclosed in Note 16 to the financial statements include an amount of Kes.16, 493,778 in respect of procurement of an ERP Software using direct method of procurement. Review of records indicates that the request for approval to use direct method of procurement did not demonstrate the rationale for use of the method 10 as required by Section 103 (2) of the Public Procurement and Asset Disposal Act, 2015 and there was no

evidence provided to confirm that the supplier was the only supplier of the software. Further, the request was for a specific software and by a specific supplier instead of generic description of the software including the functions of the software. The procurement was an international procurement and should have used international tender procedures. In the circumstances, Management was in breach of the law.

Management Response

954. The Accounting officer submitted that the observation by the auditor on direct procurement was not in respect of ERP. Rather, it was in respect of PSSE software platform. Direct procurement for the platform was done on the following basis:

i) The county's Electrical Grid System is designed to operate on the PSSE software platform and therefore any power evacuation to the grid must be on the same platform for the compatibility purpose. It was therefore required that the Agency acquire and use PSSE software for compatibility purposes to be able to conduct the electric grid with Nuclear Power Plant included. It's also important to mention that all the Government Agencies dealing with power systems planning use PSSE, including KETRACO and Kenya Power.

ii) Further the Agency wishes to reiterate that the PSSE software is a patented product of Siemens and hence cannot be supplied by any other organization worldwide.

iii) In 2016, when the first Electric Study was done, the same Software was used because it is the only way to access the Kenyan Power System Modelling.

Committee Observation and Recommendation

955. The Committee observed that the Agency undertook direct procurement through the PSSE software platform which was a patented product and not through the ERP software; therefore, the matter stands resolved.

15.0 Non-Compliance with Executive Order on Procurement

956. During the year under view, the Agency did not publish processed tenders in the Public Procurement Information Portal. The Agency is yet to migrate its procurement processes to the E-procurement platform and all procurements were processed manually during the year under review. This was contrary to the provisions of the Executive Order No.2 of 2018 which requires all public entities processed by the respective entities through the Public Procurement

Regulatory Authority website, and the Public Procurement platforms. In the circumstances, Management was in breach of the law.

Management Response

957. The Accounting Officer submitted that initially, the Authority had difficulties complying with Executive Order No. 2 of 2018 largely due to institutional capacity challenges. To address those challenges, the Agency requested for capacity building from PPRA on 16th April, 2026 which was done and the Agency regularized the situation after the training.

Committee Observation and Recommendation

958. The Committee observed that the Agency faced capacity challenges in relation to procurement laws and, as a result, sought assistance from the Public Procurement Regulatory Authority (PPRA), which subsequently conducted capacity-building training for the institution. Therefore, the matter stands resolved.

FINANCIAL YEAR 2021/22

16.0 Inaccuracies in the Financial Statements

959. The statement of financial performance for the year ended 30 June, 2022 reflects a deficit of Kes. 70,207,926 which is at variance with deficit of Kes. 66,286,079, reflected in the statement of comparison of budget and actual amounts resulting in an unexplained variance of Kes. 3,921,847. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Management Response

960. The management acknowledged the audit observation on the variance between the deficit of Kes.70,207,926 reported in the Statement of Financial Performance and the deficit of Kes.66,286,079 reflected in the Statement of Comparison of Budget and Actual Amounts, resulting in an unexplained difference of Kes.3,921,847. The Accounting Officer submitted that the variance arose primarily due to differences in the basis of accounting and classification of revenues and expenditure made during the preparation of the financial statements. The Statement of Comparison of Budget and Actual Amounts is prepared on cash basis while the Statement of Financial Performance is prepared on accrual basis in compliance with International Public Sector Accounting Standards (IPSAS). The differences relate recognition of certain

accrued expenses, non-cash items, and commitments that are captured under accrual accounting but excluded in the budget comparison statement.

Committee Observation and Recommendation

961. The Committee observed that the variance resulted from differences in the basis of accounting and classification of revenues and expenditure. However, the financial statements had been corrected; hence, the matter was resolved.

17.0 Non-Preparation of Financial Statements for the Fund

962. As disclosed in Note 14 (b) to the financial statements, the statement of financial position reflects transfers to the Staff Mortgages and Car Loan Fund amounting to Kes. 317,285,000. However, Management has not prepared separate financial statements for the Fund contrary to Section 84(1) of the Public Finance Management Act, 2012. In the circumstances, Management was in breach of the law.

Management Response

963. The Accounting officer submitted as follows—

i) Non-preparation of Separate Financial Statements for the Fund

Following the observation of the auditor Management has since the FY 2023/24 been preparing separate financial statements for the car loan and mortgage schemes after being advised and guided.

ii) Non-appointment of a Fund Manager

Regarding the appointment of a Fund Manager, Management wishes to clarify that Clause 3.12.1 of the Agency's Human Resource Policy and Procedures Manual provides that the Agency may establish a Car Loan and Mortgage Scheme based on prevailing Government guidelines or opt to join an existing, established scheme. In compliance with this provision, and to ensure prudent and professional management of the Fund, the Agency signed a Memorandum of Understanding with Stima Sacco, formally appointing the SACCO as the administrator of the Staff Mortgage and Car Loan Fund.

Committee Observation and Recommendation

964. The Committee observed at the time of examination that the Agency had a separate financial statement for the mortgage facility commencing from FY 2023/24. Therefore, the matter stands resolved.

18.0 Failure to Observe One Third of Basic Salary Payment Rule

965. Review of the payroll records for the months of March and June revealed that eighteen (18)officers were paid a net salary that was less than a third (1/3) of their basic pay contrary to provisions of Section 19(3) of the Employment Act, 2007 which stipulates states that without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions that may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry. In the circumstances, Management contravened the law and this may expose the staff to pecuniary embarrassment.

Management Response

966. The Accounting Officer submitted as follows—

i) March 2022

Payroll Management acknowledged the audit observation regarding non-compliance with the statutory two-thirds (2/3) basic pay rule in the March 2022 payroll. The Agency's payroll system is configured to automatically enforce this requirement to ensure ongoing compliance. However, due to a system error, a small number of employees were inadvertently excluded from this control in March 2022, resulting in breaches of the 2/3 rule. Management has since identified and rectified the system anomaly to prevent recurrence. Additional checks have also been introduced to ensure robust monitoring and compliance with statutory payroll requirements in future payroll runs.

ii) June 2022 Payroll

Management further clarifies that the instances noted in the June 2022 payroll relate to recoveries of outstanding imprests as at the end of the year. Government financial regulations require that any outstanding imprests must be recovered in full from the employees' pay before the close of the financial year. It is important to note that these statutory recoveries are exempt from the one-third (1/3) basic pay protection rule, as imprest recoveries are mandatory offsets against public funds owed by employees.

Committee Observation and Recommendation

967. The Committee observed that the anomaly in March 2022 was due to a system error which had since been rectified.

968. Further the Committee observed that for the June 2022 payroll, the affected officers had outstanding imprests which was recovered in that month. Therefore, the matter was resolved.

19.0 Unapproved Directors Fees Payable

969. The statement of financial position and Note 17 to the financial statements reflects trade and other payables from exchange transactions of Kes.102,672,797 which includes provisions amounting to Kes. 12,120,000 being Directors fees payable. In a letter dated 2nd March,2020, The National Treasury requested for evidence providing for Directors' entitlement to the fee, for instance, the Agency's Remuneration Policy for Board Members and/or any supporting document, and a breakdown of the outstanding Directors' fees before it could consider the Agency's request for approval. However, no evidence of approval of payment of the allowances was provided for audit review. In the circumstances, the regularity of Directors fees payable balance of Kes.12,120,000 could not be confirmed.

Management Response

970. Management acknowledged the audit observation regarding the Directors' fees payable balance of Kes. 12,120,000 included under trade and other payables from exchange transactions as at 30 June 2022. The balance represents provisions for Directors' fees accumulated over prior periods, pending formal approval of the payment by the National Treasury. In response to the National Treasury's letter dated 02 March 2020, which requested supporting evidence for the Directors' entitlement such as the Agency's Remuneration Policy for Board Members and a detailed breakdown of the outstanding fees, management compiled and submitted the requested documentation for consideration. However, formal approval of the payment rates by the National Treasury had not been received by the time of audit, which explains why evidence of approval was unavailable for audit review. To ensure compliance the Agency is actively engaging with the National Treasury to expedite the approval process. Once the approval is granted, the provision will be appropriately settled in line with the approved rates and Government guidelines.

Committee Observation and Recommendation

971. The Committee observed that during this particular financial year despite the provision, no fee was paid to the Directors. Further, the Committee noted that currently the Agency does not provide for Directors fees. Therefore, the matter stands resolved.

20.0 Non-Compliance with Executive Order on Procurement

972. During the year under review, the Agency did not publish processed tenders in the Public Procurement Information Portal. The Agency is yet to migrate its procurement processes to the E-procurement platform and all procurements were processed manually during the year under review. This was contrary to the provisions of the Executive Order No.2 of 2018 which requires all public entities to publish all tenders processed by the respective entities through the Public Procurement Regulatory Authority website, and the Public Procurement Regulatory platforms. In the circumstances, Management was in breach of the law.

Management Response

973. The Accounting Officer submitted that initially, the Authority had difficulties complying with Executive Order No. 2 of 2018 largely due to institutional capacity challenges. To address those challenges, the Agency requested for capacity building from PPRA on 16th April, 2026 which was done and the Agency regularized the situation after the training.

Committee Observation and Recommendation

974. The Committee observed that the Agency had faced capacity challenges in relation to procurement laws and, as a result, sought assistance from the Public Procurement Regulatory Authority (PPRA), which subsequently conducted capacity-building training for the institution. Therefore, the matter stands resolved.

21.0 Unapproved Domestic Appliances Loan

975. The statement of financial performance and Note 7 to the financial statements reflects interest on staff loans of Kes.114,719 in respect of domestic appliances loan. However, no approval from The National Treasury was provided for advancement of the credit facilities to the staff as required by the Act. It is not clear how the rates of interest were arrived at and the payment

period for the loans. In the circumstances, the regularity of the advancement of the loans to staff could not be confirmed.

Management Response

976. The domestic loan for the staff of the agency was part of the terms and conditions of service approved by the Head of Public. However, during the audit exercise for FY 2018-2019 the auditor recommended and management concurred with the recommendation that domestic loans should be charged interest at the prescribed rate by Kenya Revenue Authority. The management with effect from March 2020 effected charging of interest as per the prescribed rate of 10%.

Committee Observation

977. The Committee observed that the Agency had effected charging of interest as per the prescribed rate of 10% hence the matter stands resolved.

22.0 Unapproved Over-Expenditure

978. The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflects final receipts budget of Kes. 889,276,042 against actual amount of Kes. 870,609,025 resulting in a revenue shortfall of Kes. 18,667,017 or 2% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kes. 889,276,042 and Kes. 936,895,103 respectively resulting in an over-expenditure of Kes. 47,619,061 or 5% of the approved budget. The over-expenditure was not approved contrary to Sections 51(2) of the Public Finance Management Regulations, 2015, which requires that commitment of goods and services be made against approved budget.

Management Response

979. The Accounting Officer submitted that the over-expenditure primarily arose from the need to account for work in progress carried forward from the FY 2020/2021 into the current financial year. Specifically, this included commitments for goods and services that were procured and contracted in the prior year but whose delivery, invoicing, or completion occurred in FY 2021/2022. However, the over expenditure incurred of 5% is within the allowable budget variance limit of 10%.

Committee Observation and Recommendation

980. The Committee observed that the expenditure included goods and services that were procured in the prior year but whose delivery, invoicing and completion occurred in the year under review; hence, the matter stands resolved.

FINANCIAL YEAR 2022/2023

23.0 Irregular Utilization of Petroleum Development Levy Funds

981. Review of the financial records revealed that the Agency received a total of Kes.918,000,000 which includes an amount of Kes.200,000,000 from the Petroleum Development Fund which were utilized on implementation of nuclear projects. This was contrary to Section 4(4) of the Petroleum Development Fund Act, 2012 which states that there shall be paid out of the Petroleum Development Funds such monies as are necessary for the development of common facilities for distribution or testing of oil products and matters relating to the development of the oil industry. In the circumstances, Management was in breach of the law.

Management Response

982. The Agency depends entirely on the funding in form of exchequer releases from the Ministry of Energy. The amount of Kes.200M was budgeted for under the Ministry and was to be funded by Appropriation in Aid (AIA) collected by the Ministry. The Agency received the money as per the budgetary allocations for the financial year under review.

Committee Observation and Recommendation

983. The Committee observed that the Agency received the money from the Parent Ministry as per their budgetary allocations. Therefore, the matter stands resolved.

24.0 Failure to Prepare Financial Statements for Staff Mortgage and Car Loan Fund

984. Note 14 (b) to the financial statements reflects non-current receivables of Kes. 317,285,000 in respect of staff mortgage and car loans fund. However, the financial statements for the Funds were never prepared and submitted for audit contrary to Section 47(1) of the Public Audit Act, 2015 on time limit of submission of accounts which provides that the financial statements required under the Constitution, the Public Finance Management Act, 2012 18 and any

other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate. In the circumstances, Management was in breach of the law.

Management Response

985. The management prepared a draft financial statement for the FY 2022/2023. However, due to challenges in getting financial information from service providers specifically Development Bank of Kenya, the Agency did not manage to remit the same within the stipulated deadline for audit. However, in the subsequent year the same was submitted and audited.

Committee Observation and Recommendation

986. The Committee observed that the Agency had in the subsequent year prepared the financial statement for the mortgage and car loan facility. Therefore, the matter stands resolved.

25.0 Irregular Procurement for Consultancy Services - Enterprise Resource Planning (ERP) Implementation

987. The Agency under Note 8 to the financial statements spent a total of Kes.439,943,721 in respect of use of goods and services. Included in the expenditure is consultancy fees amounting to Kes.9,692,300 for procurement of a consultant for PRE-ERP implementation process. However, Management used their list of the prequalified suppliers under consultancy to seek for proposal for the consultant, contrary to Section 122(1) of the Public Procurement and Asset Disposal Act, 2015 which stipulates only those candidates who qualified after submitting their expression of interests were to be invited to put in their proposals. Management invited bids from firms that had not put in their expression of interests and qualified to be invited. In the circumstances, Management was in breach of the law.

Management Response

988. The Agency while in the process of implementing an ERP System, engaged the services of a consultant under the Quality and Cost Based Selection method (QCBS) as the procurement default method under consultancies in line with section 124(1) (2) of the Public Procurement and Asset Disposal Act. The expression of interest (EOI) in section 118 to122 of PPADA,2015 is not a selection method for consultancy services but a prequalification or shortlisting process that leads to invitation of qualified consultants under section 123 of the

PPADA,2015. The Act gives several options of inviting consultants and in section118 of PPADA,2015, utilization of register under section 57 of the Act is allowed. The Agency maintains a list of registered suppliers of goods, works, services and consultants in line with section 57 and 71 of the PPADA,2015 which are used for all other alternative procurement methods (71(4) save for open tender and expression of interest. Having a list of registered in the category of consultants for ICT Consultancy Services the Agency opted to use the list and invited the consultants under QCBS as the most suitable method for consultancy services.

989. It should be noted that after EOI and coming up with the most qualified consultants, apart from QCBS, other selection methods like the Quality based Selection, Least Cost Selection, Fixed Budget Selection among others can still be applied by issuing a request for proposal to the bidders in line with relevant laws. The issue of minimum number of proposals to be received is only applicable where an EOI is applied but in the case of using an existing list of registered consultants, it is not applicable. The Agency invited eight (8) firms from the list of registered consultants.

Committee Observation and Recommendation

990. The Committee observed that the Agency used the Quality and Cost Based Selection method (QCBS) as the procurement default method under consultancies in line with section 124(1) and (2) of the Public Procurement and Asset Disposal Act, CAP 412C.

991. Additionally, the Committee observed that the Agency had maintained a list of registered suppliers of goods, works, services and consultants in line with section 57 and 71 of the PPADA, CAP 412C which was used for all other alternative procurement methods (71(4) save for open tender and expression of interest.

992. The Committee recommends that the Agency having upheld section 124(1) and (2) of the Public Procurement and Asset Disposal Act, CAP 412C in the procurement of consultancy services; hence, the matter stands resolved.

26.0 Irregular Reallocation of Funds

993. The Agency spent a total of Kes.16,429,506 on gratuity and Kes.30,185,316 on medical expenses against an approved budget of Kes.15,000,000 and

Kes.25,000,000 respectively as reflected in Note 9 to the financial statements. This resulted to an over expenditure of Kes.1,429,506 and Kes.5,185,315 for gratuity and medical expenses respectively contrary to Public Finance Management Act, 43, 2 (b) which states that an Accounting Officer, may reallocate funds between programs, or between Sub-Votes, in the budget for a financial year if a request for the reallocation has been made to The National Treasury explaining the reasons for the reallocation and The National Treasury has approved the request. In the circumstances, Management was in breach of the law.

Management Response

994. The over-expenditure was primarily due to unavoidable and unforeseen obligations. For gratuity, the increase resulted from additional contract staff exits requiring payment of terminal benefits. For medical expenses, the higher costs were driven by increased staff utilization of medical services beyond initial projections. The variance is within the allowable 10%.

Committee Observation

995. The Committee observed that the management ought to have made proper planning by incorporating the budgets for staff who were exiting.

996. The Committee observed that the Accounting Officer did not submit approvals for the over expenditure in gratuity and medical expenses.

Committee Recommendation

997. The Committee recommends that the Accounting Officer should henceforth adhere to the approved budget or otherwise seek formal approval for reallocation of funds as per section 43(2)(b) of the Public Finance Management Act, CAP 412A.

27.0 Outstanding PAYE Penalties and Interest

998. The Kenya Revenue Authority i-tax portal for Income Tax assessment for the Agency reflects cumulative penalty and Interest charges of Kes.1,473,814 contrary to Section 105 of the Income Tax Act which states that tax is recoverable if it is proved to the satisfaction of the Commissioner that, in respect of a year of income, tax has been paid by or on behalf of a person, whether directly or by deduction or otherwise, which is in excess of the amount payable by that person as finally determined in respect of that year of income, the Commissioner shall refund the amount of the excess, together with any

interest which may be payable thereon under this Act, to the person entitled to the refund. Additionally, when tax is due and payable by a person in respect of an assessment, any amount refundable to that person under this section shall be applied towards the satisfaction of the tax so due and payable to the extent of that tax and the amount so applied shall not be refunded. In the circumstances, Management was in breach of the law.

Management Response

999. This Accounting Officer submitted that the Authority had consulted with Kenya Revenue Authority with a view of making good the account to avoid further penalties. The Agency through KRA then conducted a sensitization on different tax obligations and responsibilities. Currently, the Agency has no outstanding obligations owed to KRA.

Committee Observation and Recommendation

1000. The Committee observed that a tax compliance certificate from the Kenya Revenue Authority was submitted which confirmed the Authority's adherence to tax obligations; hence, the matter is resolved.

28.0 Non-Compliance of Mortgage Loan Terms

1001. The Agency mortgage facility as per Section E part 48 of the scheme regulations had a maximum duration of twenty-five (25) years which is contrary to Section 7 of Circular SRC/ADM/COR/1/13 Vol. III /128 of 2014 states that the maximum duration of the mortgage facility is twenty (20) years. The policy further allows staff on contract to access the facility contrary to the eligibility/ criteria stipulated in the 2014 car and mortgage loan circular. This is contrary to Section 1 of SRC circular on staff car and mortgage defines the scope and eligibility of the car and mortgage facility as state officers employed on permanent and pensionable basis as well as state officers working on part time or fulltime basis. In the circumstances, Management was in breach of the regulations.

Management Response

1002. The management acknowledged the typographical error in the Agency's scheme regulations, which incorrectly stated the maximum repayment duration as 25 years. However, 21 auditors were provided with evidence demonstrating that no beneficiary has had their mortgage repayment duration set at 25 years, but rather at 20 years in compliance with the SRC circular.

Clause 42(b) of the Agency's mortgage and car loan regulations provides that staff, whether on contract or permanent terms of service, are eligible to benefit from the scheme provided they meet all the established conditions.

Committee Observation and Recommendation

1003. The Committee observed that the maximum duration of mortgage repayment period of 25 years was erroneously stated. The mortgage repayment period was 20 years; hence, the matter stands resolved.

29.0 Excess Composition of Board Members and Committees

1004. The Agency had nine (9) Board Members and hence the membership of committees should be a third (1/3) of the board which translates to a maximum of 3 members. This, however, was not adhered to as the four (4) committees of the board had four (4) members. The number of members to any Committees should be no more than one third (1/3) of the full board to obviate the risk of a committee conducting its business within the framework of a full board structure. In the circumstances, the effectiveness of the governance structure of the board could not be confirmed.

Management Response

1005. Based on the provisions of Mwongozo and good governance practices, the Board of Directors of the Nuclear Power and Energy Agency (NuPEA) comprises 10 members. Accordingly, one-third of the Board translates to 3.33 members. Since it is not practical to have a fraction of a person, the figure was rounded up to 4 members per Committee to ensure compliance and operational effectiveness. In August 2022, the Board constituted various Committees with this consideration in mind. Furthermore, Mwongozo recommends a minimum quorum of three members for Committee meetings. Committees composed of only three members would face a heightened risk of failing to meet quorum requirements in the event of any member's absence due to unavoidable circumstances.

1006. By appointing four members to each Committee, the Board ensured both compliance with governance guidelines and the continuity of Committee operations through improved likelihood of meeting quorum at all times. The composition of committees is as follows:

i) Human Resource and General Purpose Committee - Concerning Human Resource and Administration, Legal, and Publicity policies and procedures has four members;

ii) Technical and Research Committee - Concerning infrastructure issues for the successful implementation of a Nuclear Power Programme in Kenya has 4 members;

iii) Finance, Strategy and Planning Committee - Concerning Finance, ICT, Strategy & planning; Planning issues and Procurement policies and procedures has four members; and

iv) Board Audit Committee - The Audit Committee is established by the PFMA has four members:

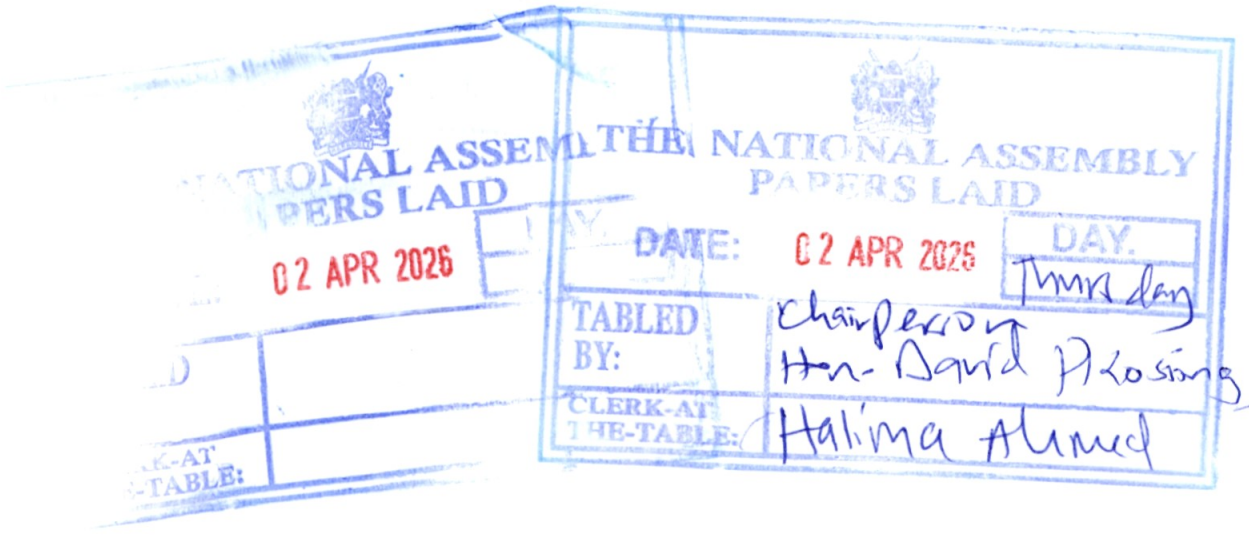
Committee Observation and Recommendation

1007. The Committee observed at the time of examination that the board was properly constituted as per the *Mwongozo* code of good governance practices. Therefore, the matter stands resolved.

Dated.....02/04/.....2026

HON. DAVID PKOSING, CBS, MP

CHAIRPERSON, PUBLIC INVESTMENT COMMITTEE ON COMMERCIAL AFFAIRS AND ENERGY



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT – FIFTH SESSION – 2026
DIRECTORATE OF AUDIT, APPROPRIATIONS & GENERAL-PURPOSE COMMITTEES

ADOPTION SCHEDULE

FOURTH REPORT OF PIC – COMMERCIAL AFFAIRS & ENERGY ON EXAMINATION OF THE REPORTS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE FOLLOWING STATE CORPORATIONS:

I. Rural Electrification & Renewable Energy Corporation (REREC) (FY 2020/2021 -2022/2023)
II. Kenya Electricity Transmission Company Limited (KETRACO) (FY 2018/2019 – 2021/2022)
III. Nuclear Power and Energy Agency (NUPEA) (FY2018/2019 – 2022/2023)
IV. Kenya Power & Lighting Company PLC (KPLC) (FY2018/2019 – 2022/2023)
V. Kenya Electricity Generating Company Plc (KENGEN) (FY2021/2022 – 2022/2023)

DATE: 17/03/2026

	NAMES	SIGNATURE
1.	Hon. David Pkosing, CBS, M.P - **Chairperson**	
2.	Hon. Dr. John Ariko Namoit, M.P. – **Vice Chairperson**	
3.	Hon. Dr. Adan Keynan Wehliye, CBS, M.P	
4.	Hon. Festus Mwangi Kiunjuri, EGH, M.P	
5.	Hon. Sarah Paulata Korere, M.P	
6.	Hon. Dr. Babu Owino Paul Ongili, M.P	
7.	Hon. Dr. Beatrice Adagala, M.P	
8.	Hon. Esther Muthoni Passaris, M.P.	
9.	Hon. Paul Kahindi Katana, M.P	
10.	Hon. Betty Njeri Maina, M.P	
11.	Hon. Charo Kazungu Tungule, M.P	
12.	Hon. David Kiplagat M.P.	
13.	Hon. Duncan Mathenge Maina, M.P	
14.	Hon. Ronald Kamwiko Karauri, M.P	
15.	Hon. Yusuf Mohamed Farah, M.P	

MINUTES OF THE 21ST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON GOVERNANCE & EDUCATION HELD ON THURSDAY, 19TH MARCH, 2026 IN ARGYLLE GRAND HOTEL AT 4:00PM.

PRESENT

1. **Hon. Wanami Wamboka, CBS, MP** - **Chairperson**
2. Hon. Boby Ong'ondu Were, MP - Vice Chairperson
3. Hon. Mark Muriithi Mwenje, CBS, MP
4. Hon. (Amb.) Sigei Francis Kipyegon, EBS, MP
5. Hon. Daniel Karitho Kiili, MP
6. Hon. Joseph Tonui Kipkosgei, MP
7. Hon. Thuddeus Nzambia Kithua, MP
8. Hon. Moses Kirima Nguchine, MP
9. Hon. Alfa Ondieki Miruka, CBS, MP

APOLOGIES.

1. Hon. Wamacukuru Githua Kamau, CBS, MP
2. Hon. (Dr.) Shadrack Mwiti Ithinji, OGW, MP
3. Hon. Bonaya Mumina Gollo, MP
4. Hon. Chiforomodo Mangale Munga, MP
5. Hon. Rebecca Tonkei Noonaishi, MP
6. Hon. Maurice Kakai Bisau, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

1. Ms.Ruth Mwihaki - Clerk Assistant I
2. Mr. Enock Manwa - Clerk Assistant III
3. Ms. Eunice Liavuli - Research Officer III
4. Mr. Stephen Otieno - Sergeant at Arms
5. Mr. Peter Muthethia - Audio Recording Officer

OFFICE OF THE AUDITOR GENERAL

1. Mr.Lawerence kiilu - Deputy Director of Audit
2. Mr. Felix Itonge - Principal Auditor/Liaison Officer

MIN.NO. NA/DAAGPC/PIC-G & E/2026/043: PRELIMINARIES

The meeting was called to order at ten minutes past twenty-five minutes past four O'clock (4.25 p.m.), followed by a word of prayer. Thereafter, the Chairperson welcomed the Members to the meeting.

MIN.NO. NA/DAAGPC/PIC-G & E/2026/044: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments, having been proposed and seconded by Hon. Daniel Karitho Kiili, M.P and Hon. Joseph Tonui Kipkosgei, M.P.

AGENDA:

1. Prayers;
2. Preliminaries/Introduction
    i. Adoption of the Agenda;
    ii. Confirmation of minutes of previous sittings and matters Arising
3. Consideration of the Committee Report on the Examination of the Reports of the Auditor General on Financial Statements of State Corporations (Various Universities) for Financial Year 2018/2019, 2019/2020, 2020/2021, 2021/2022, 2022/2023, 2023/2024 & 2024/2025
4. Consideration of the Committee report on the examination of the reports of the Auditor General on financial statements of state corporations (National Polytechnics) for the Financial Years 2021/2022, 2022/2023, 2023/2024, 2024/2025.
5. Any Other Business; and
6. Adjournment.

MIN.NO. NA/DAAGPC/PIC-G & E/2026/ 045 CONFIRMATION OF THE MINUTES OF THE PREVIOUS MEETINGS

Minutes of the First Sitting held on 2nd February,2026 were confirmed as true records of the proceedings having been proposed by the Hon. Mark Muriithi Mwenje,CBS, M.P and seconded by the Hon.Moses Kirima Nguchine, M.P.

Minutes of the Second Sitting held on 10th February,2026 were confirmed as true records of the proceedings having been proposed by the Hon. Daniel Karitho Kiili, M.P and seconded by the Hon.Thuddeus Nzambia Kithua, M.P.

Minutes of the Third Sitting held on 11th February,2026 were confirmed as true records of the proceedings having been proposed by the Hon. Mark Muriithi Mwenje, CBS, M.P and seconded by the Hon. Joseph Tonui Kipkosgei, M.P.

Minutes of the Fourth Sitting held on 12th February,2026 were confirmed as true records of the proceedings having been proposed by the Hon. Daniel Karitho Kiili, M.P and seconded by the Hon. Thuddeus Nzambia Kithua, M.P.

Minutes of the Fifth Sitting held on 17th February,2026 were confirmed as true records of the proceedings having been proposed by the Hon. Joseph Tonui Kipkosgei, M.P and seconded by the Hon. Moses Kirima Nguchine, M.P.

Minutes of the Sixth Sitting held on Tuesday, 17th February,2026 were confirmed as true records of the proceedings having been proposed by the Hon. Daniel Karitho Kiili, M.P and seconded by the Hon. Thuddeus Nzambia Kithua, M.P.

Minutes of the Seventh Sitting held on Tuesday, 18th February,2026 were confirmed as true records of the proceedings having been proposed by the Hon. Moses Kirima Nguchine, M.P and seconded by the Hon. Joseph Tonui Kipkosgei, M.P.

Minutes of the Eighth Sitting held on Wednesday, 24th February,2026 were confirmed as true records of the proceedings having been proposed by the Hon. Daniel Karitho Kiili, M.P and seconded by the Hon. Joseph Tonui Kipkosgei, M.P.

MIN.NO. NA/DAAGPC/PIC-G & E/2026/046 CONSIDERATION OF THE COMMITTEE REPORT ON THE EXAMINATION OF THE REPORTS OF THE AUDITOR GENERAL ON FINANCIAL STATEMENTS OF STATE CORPORATIONS (VARIOUS UNIVERSITIES) FOR FINANCIAL YEAR 2018/2019, 2019/2020, 2020/2021, 2021/2022, 2022/2023, 2023/2024 & 2024/2025

The Committee considered the report on the examination by the Auditor General for Financial Years 2018/2019-2024/2025 for the following agencies

1) Kibabii University College 2021/2022 to 2024/2025

2) Rongo University 2021/2022 to 2024/2025

3) Pwani University 2018/2019 to 2024/2025

4) Kisii University 2018/2019 - 2024/2025

5) Egerton University 2024/2025

6) Tom Mboya University 2021/2022 - 2024/2025; and

7) Technical University of Mombasa Enterprise Limited (TUMEL) 2021/2022 - 2024/2025

GENERAL OBSERVATIONS AND RECOMMENDATIONS

The Committee noted that, unlike in previous reports where institutions faced numerous challenges relating to financial statements and audit matters, the institutions have generally improved in the latest financial statements, having become more sensitized on audit matters and audit processes.

In consideration of reports of the universities, the Committee encountered cross-cutting and at times, persistent matters that informed the general observations and recommendations. Specific observations and recommendations are, however, made in relation to the respective agency.

1. Poor Accounting Standards

The Committee observed that some accounting officers failed to comply with various provisions of the Public Finance Management (PFM) Act, Cap. 412A and the Public Audit Act, Cap.412. The non-compliance led to various breaches such as inaccuracies in financial statements, failure to reconcile accounts, and consistent failure to address prior year audit matters.

The Committee recommended that the Accounting Officer should comply with the provisions of Sections 81 (3) of the PFM Act, 2012 which provides that – The accounting officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

2. Late submission of supporting documentation

Some accounting officers failed to submit supporting documentation to the Auditor-General on time (during the audit cycle) as required under section 68 of the PFM Act. This invariably led to the Committee discussing matters that should ordinarily not feature in the final report, some as mundane as accounts not balancing.

The Committee recommended that Accounting Officers henceforth comply with Section 68(2)(k) of the PFM Act, Cap. 412A by providing supporting documentation on time. Going forward, the committee will not allow submission of documents to the OAG outside the audit cycle without justification. Accounting Officers who, without justifiable reason, contravene the provisions of Section 62 of the Public Audit Act shall face the penalties prescribed under Section 63 of the Public Audit Act.

3. Unsecured/ untitled land holdings

The Committee noted several instances where land owned by various institutions remained unsecured and lacked proper title documentation. The absence of legal ownership records exposes these institutions to risks, including land disputes, encroachment, and potential loss of property.

The committee recommended that the Ministry of Lands, and the relevant government agencies, should fast-track the titling and registration of all institutional land holdings to ensure legal

ownership and security. Institutions should conduct land audits and maintain an updated asset register of their land to facilitate accountability and protection against encroachment.

Institutions facing land disputes should seek legal intervention promptly and engage with relevant authorities to resolve ownership issues efficiently.

4. Failure to adhere to gender, ethnicity and regional balance

This report highlights concerns about the underrepresentation of certain ethnic groups, unfair employment practices, and potential discrimination in recruitment, promotion, and other employment-related processes. This is contrary Section 7 (1) and (2) of the National Cohesion and Integration Act, 2008, which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment should have more than one-third of its staff from the same ethnic community.

Despite explanations from Accounting Officers that the lack of diversity was historical and prevalent because of the geographical location, the Committee is of the view that with the rife unemployment countrywide, attracting an ethnically diverse pool of applicants for advertised jobs was tenable. The committee however, notes and appreciates the efforts made by some institutions to comply with this law progressively.

The Committee recommended that all public agencies must comply with the constitutional provision on equity and inclusiveness buttressed by the National Cohesion and Integration Act, Cap. 7N .

Further, the National Cohesion and Integration Commission, together with the Inspectorate of State Corporations, conducts bi-annual examination of ethnic composition in these state-owned enterprises, to confirm incremental address of the matter.

5. Non-compliance with Affirmative Action on Employment

The committee observed that all the institutions in this report were in breach of Section 21(2)(a) of the Persons with Disabilities Act, 2025 which states that where an employer has at least twenty (20) employees, reserve at least five (5%) per cent direct employment opportunities for persons with disabilities to secure employment.

The Committee recommended that Accounting Officers take deliberate and proactive steps to address the matter by collaborating with the Council for Persons with Disabilities to identify, recruit, and include persons with disabilities within their staff establishments and must also ensure the establishments are accessible to people living with disabilities.

6. Delay of disbursements of capitation to the Institutions

The Committee observed that most of the institutions were struggling financially due to the failure of the National to disburse funds on time. The chronic underfunding has led to the accumulation of debts that are stifling the growth of the institutions. The various Accounting Officers gave an account of the numerous challenges that have been on an upsurge due to the underfunding resulting from the delay in disbursements.

The Committee recommended that the Ministry of Education intervene to address the financial challenges facing these institutions by ensuring the timely disbursement of capitation, taking into account their revenue streams, and collaborating with the National Treasury to oversee the prompt release of funds.

Further, the committee recommended that the Institutions be encouraged to develop other income-generating activities to increase their cash flow, so as not to rely solely on government funding.

7. Unsustainable Wage Bill

The Committee observed that the wage bill in all the institutions examined is high, which is contrary to Regulation 25(1) (b) of the Public Finance Management (National Government) Regulations, 2015 which states that staff costs of a public entity should not exceed 35% of its total revenue.

The Committee also observed that the government has signed three (3) National CBA's, resulting in increased salaries and although funds for arrears were provided, funds for employers' pension contributions on the arrears and funds for implementation for future years were not provided. The Implementation of the National CBA- Government Directives by the Salaries and Remuneration Commission has therefore led to a high wage bill contrary to the PFM Act. Additionally, the Universities are also required to operate within the staffing threshold as per the requirement by the Commission for University Education, Universities Standards and Guidelines, 2014.

Committee Recommendation

The Committee recommended that universities review and rationalize their staff establishments by capping staffing levels in line with their financial capacities. Further, the Commission for University Education should reassess the student–lecturer ratios and develop a formula that accommodates fluctuations in staffing levels relative to student enrollment.

The Committee adopted the report having been proposed by Hon. Theddues Nzambia, MP and seconded by Hon. Moses Kirima, MP., respectively.

MIN.NO. NA/DAAGPC/PIC-G & E/2026/047: CONSIDERATION OF THE COMMITTEE REPORT ON THE EXAMINATION OF THE REPORTS OF THE AUDITOR GENERAL ON FINANCIAL STATEMENTS OF STATE CORPORATIONS (NATIONAL POLYTECHNICS) FOR THE FINANCIAL YEARS 2021/2022, 2022/2023, 2023/2024, 2024/2025.

The Committee considered the report on the examination by the Auditor General for Financial Years 2021/2022-2024/2025 for the following agencies

1)	Kabete National Polytechnic	2021/2022 to 2024/2025
2)	Kenya Coast National Polytechnic	2021/2022 to 2024/2025
3)	Kisumu National Polytechnic	2021/2022 to 2024/2025
4)	Michuki National Polytechnic	2021/2022 to 2024/2025
5)	Nairobi National Polytechnic	2021/2022 to 2024/2025
6)	Nyamira National Polytechnic	2022/2023 to 2024/2025
7)	Taita Taveta National Polytechnic	2022/2023 to 2024/2025
8)	Mawego National Polytechnic	2022/2023 to 2024/2025 and:
9)	Bungoma National Polytechnic	2021/2022 to 2024/2025

GENERAL COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

In consideration of the reports submitted by various state agencies, the Committee noted several cross-cutting and, at times, persistent issues that shaped its general observations and recommendations. Specific findings and recommendations are, however, addressed in relation to the respective agencies.

Having conducted a comprehensive examination of the Auditor-General's reports on the audited accounts, the Committee made the following general observations regarding recurring audit queries and systemic challenges affecting the Technical and Vocational Education and Training (TVET) sector.

1. **Failure to adhere to gender, ethnicity and regional balance**

This report highlights concerns about the underrepresentation of certain ethnic groups, unfair employment practices, and potential discrimination in recruitment, promotion, and other employment-related processes. This is contrary Section 7 (1) and (2) of the National Cohesion and Integration Act, 2008, which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and no public establishment should have more than one-third of its staff from the same ethnic community.

Despite explanations from Accounting Officers that the lack of diversity was historical and prevalent because of the geographical location, the Committee is of the view that with the rife unemployment countrywide, attracting an ethnically diverse pool of applicants for advertised jobs was tenable. The committee however, notes and appreciates the efforts made by some institutions to comply with this law progressively.

Committee Recommendations

The Committee recommended that all public agencies must comply with the constitutional provision on equity and inclusiveness buttressed by the National Cohesion and Integration Act, CAP. 7N.

Further, the National Cohesion and Integration Commission, together with the Inspectorate of State Corporations, conducts bi-annual examination of ethnic composition in these state-owned enterprises, to confirm incremental address of the matter.

2. Non-compliance with Affirmative Action on Employment

The committee observed that all the institutions in this report were in breach of Section 21(2)(a) of the Persons with Disabilities Act, 2025 which states that where an employer has at least twenty (20) employees, reserve at least five (5%) per cent direct employment opportunities for persons with disabilities to secure employment.

The Committee recommended that Accounting Officers take deliberate and proactive steps to address the matter by collaborating with the Council for Persons with Disabilities to identify, recruit, and include persons with disabilities within their staff establishments and must also ensure the establishments are accessible to people living with disabilities

3. Long outstanding receivables

The Committee observed that persistent and unsustainable accumulation of long-outstanding receivables across the institutions, largely comprising student debtors and other legacy debts dating back several years, with minimal or no evidence of effective recovery or write-off action. This is indicative of weak debt management practices, failure to enforce credit control policies, and non-compliance with impairment and provisioning requirements under IPSAS 41, resulting in overstatement of assets and misrepresentation of the financial position.

Further, the continued retention of irrecoverable debts, including those relating to deceased persons and former employees, without requisite approvals reflects poor financial stewardship and a breach of the responsibilities of Accounting Officers under Section 68 of the Public Finance Management Act.

Committee Recommendations

The Committee recommended that all Accounting Officers conduct a comprehensive reconciliation of all student debtors and submit detailed ageing analyses to the Auditor-General within three (3) months. Of the adoption of this report. Further, Accounting Officers must assess the recoverability of all receivables outstanding for more than one year and recognize appropriate impairment provisions in the financial statements in compliance with IPSAS 41, within three (3) months.

Where receivables are deemed irrecoverable, including debts owed by deceased persons, former employees, or students who have left the institution, Accounting Officers must obtain formal write-off authority from the National Treasury within six (6) months, in accordance with Section 68 of the Public Finance Management Act, to ensure proper financial management and accountability.

4. Budgetary Control and Performance

The Committee observed that there were persistent and widespread budgetary control and performance challenges across the institutions, characterized by significant underfunding, under-expenditure, and instances of over-expenditure without approved supplementary budgets, reflecting weak budget formulation, poor expenditure control, and over-reliance on government capitation.

Further, the failure by institutions to provide explanations for material variances between budgeted and actual amounts in their financial statements contravenes Section 81(3) and undermines the responsibilities of Accounting Officers under Section 68(2) of the Public Finance Management Act, as well as the requirements of IPSAS 24, thereby affecting transparency, accountability, and effective service delivery.

Committee Recommendations

The Committee recommended that within three (3) months upon adoption of this report, all Accounting Officers strengthen budget formulation processes to ensure that projections are realistic, achievable, and informed by historical revenue performance, confirmed funding commitments, and prevailing economic trends, in line with the principles of prudent financial management under the Public Finance Management Act.

Further, all institutions must ensure that their financial statements include a clear and comprehensive statement explaining material variances between budgeted and actual amounts in compliance with Section 81(3) of the Public Finance Management Act and the requirements of IPSAS *24.*

The Committee further recommended that the Ministry of Education and the National Treasury ensure timely and adequate disbursement of capitation funds to TVET institutions to facilitate the effective implementation of approved budgets and mitigate the accumulation of receivables.

5. Institutional Land holdings

The Committee noted several instances where land owned by various institutions remained unsecured and lacked proper title documentation. The absence of legal ownership records exposes these institutions to risks, including land disputes, encroachment, and potential loss of property. In some cases, institutions were occupying land without formal titles, making it difficult to undertake development projects.

Committee Recommendations

The Committee recommended that the Ministry of Lands and the relevant government agencies should fast-track the titling and registration of all institutional land holdings to ensure legal ownership and security. Institutions should conduct land audits and maintain an updated asset register of their land to facilitate accountability and protection against encroachment.

In additionally, the government should allocate resources for surveying, demarcation, and documentation of institutional land to prevent disputes and legal challenges. Institutions facing land disputes should seek legal intervention promptly and engage with relevant authorities to resolve ownership issues efficiently.

6. Procurement irregularities and Non-Compliance with Procurement laws

The Committee observed pattern of systemic procurement irregularities and non-compliance across the institutions, including unlawful advance payments, use of inappropriate procurement methods, awards to non-compliant bidders, procurements outside approved plans, and inadequate documentation, contrary to the provisions of the Public Procurement and Asset Disposal Act. In particular, the irregular award of tenders without mandatory statutory compliance, unauthorized advance payments, and transfer of public funds to unregulated entities expose public resources to significant risk of loss and undermine transparency, accountability, and value for money in public procurement.

Committee Recommendations

The Committee recommended that all Accounting Officers ensure strict compliance with the provisions of the Public Procurement and Asset Disposal Act by enforcing competitive bidding, adhering to approved procurement methods, and obtaining all requisite approvals prior to undertaking any procurement.

Further, institutions must prepare realistic and comprehensive annual procurement plans in the prescribed format, fully aligned with the approved budget, and ensure that no procurement is undertaken outside the approved plan.

Additionally, all procurement processes must be properly and fully documented, including requisitions, evaluation reports, tender committee minutes, inspection and acceptance reports, and duly executed contracts, to enhance transparency, accountability, and audit trail in public procurement.

7. Compliance with Statutory and Reporting Requirements

The Committee observed non-compliance with statutory requirements and financial reporting standards across the institutions, including failure to remit statutory deductions, preparation of financial statements that do not conform to prescribed reporting standards by the Public Sector Accounting Standards Board, and violation of the one-third basic pay rule contrary to the Employment Act. These irregularities undermine the integrity, accuracy, and reliability of financial reporting, expose employees to financial risk, and reflect weak internal controls and inadequate adherence to established legal and regulatory frameworks.

Committee Recommendations

The Committee recommended that all Accounting Officers ensure timely and full remittance of statutory deductions, including PAYE, NSSF, NHIF, Housing Levy, NITA, and pension contributions, to the respective authorities in compliance with applicable laws. Further, institutions must prepare financial statements in strict adherence to the reporting templates and standards prescribed by the Public Sector Accounting Standards Board, ensuring completeness, accuracy, and inclusion of all required disclosures, notes, and reconciliations.

The Committee further recommended that Accounting Officers enforce strict compliance with Section 19(3) of the Employment Act by monitoring payroll deductions to ensure that they do not exceed the statutory limit, and by advising affected staff on appropriate loan restructuring mechanisms. Institutions must also maintain accurate and complete payroll records for all employees, including casual and contract staff, to enhance accountability and auditability.

In addition, the Committee recommended that all trainers be registered and licensed by the Technical and Vocational Education and Training Authority in accordance with Section 23 of the Technical and Vocational Education and Training Act within six (6) months.

The Committee adopted the report having been proposed by Hon. Mark Muriithi Mwenje, CBS, MP and seconded by Hon. Daniel Karitho Kiili, MP.

MIN.NO. NA/DAAGPC/PIC-G & E/2026/040: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business the meeting was adjourned at 6:00 pm. The next meeting will be on notice.

Signed.....**Date**.....02ND APRIL 2026.

Hon. Wanami Wamboka, CBS., M.P.
Chairperson

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 02 APR 2026 DAY.
TABLED BY: Chairperson Hon. Wanami Wamboka, MP
CLERK-AT-THE-TABLE: Halima Ahmed

MINUTES OF THE 9TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY 17TH MARCH, 2026 AT BAOBAB CONFERENCE ROOM, SERENA BEACH RESORT & SPA AT 02:00 P.M

PRESENT

1. Hon. David Pkosing, CBS, M.P – **Chairperson**
2. Hon. Dr. John Ariko Namoit, M.P. – **Vice Chairperson**
3. Hon. Paul Kahindi Katana, M.P
4. Hon. Charo Kazungu Tungule, M.P
5. Hon. David Kiplagat M.P.
6. Hon. Duncan Mathenge Maina, M.P
7. Hon. Yusuf Mohamed Farah, M.P

APOLOGIES

1. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P
3. Hon. Sarah Paulata Korere, M.P
4. Hon. Dr. Babu Owino Paul Ongili, M.P
5. Hon. Dr. Beatrice Adagala, M.P
6. Hon. Esther Muthoni Passaris, M.P.
7. Hon. Betty Njeri Maina, M.P
8. Hon. Ronald Karauri, M.P

IN ATTENDANCE

National Assembly Secretariat

1.	Ms. Esther Nginyo	-	Senior Clerk Assistant
2.	Mr. Andrew Kipchumba	-	Clerk Assistant III
3.	Ms. Gladwell Amimo	-	Clerk Assistant III
4.	Ms. Angela Musau	-	Legal Counsel II
5.	Ms. Judith Kiprop	-	Fiscal Analyst II
6.	Mr. Timothy Chiko	-	Research Officer III
7.	Ms. Deborah Mupusi	-	Media Relations Officer
8.	Mr. Danton Kimutai	-	Audio Officer
9.	Ms. Roselyne Ndegi	-	Serjeant At Arms
10.	Ms. Edith Chepngeno	-	Intern

Office of The Auditor General

Mr. Daniel Kuria - Liaison Officer

Inspectorate of State Corporations

1.	Ms. Noreen Kinyua	-	Officer
2.	Ms. Faith Wakhungu	-	Officer

3. Ms. Vivianne Majani - Officer

MIN. NO. NA/PIC-CA&E/2026/040: PRELIMINARIES

The meeting was called to order at 2:25 p.m. with a prayer by the Chairperson.

MIN. NO. NA/PIC-CA&E/2026/041: COMMUNICATION FROM THE CHAIRPERSON

The Chairperson welcomed the Members to the meeting and informed them that they would continue with the consideration of the 4th draft report, which comprises five state agencies.

MIN.NO.NA/PIC-CA&E/2026/042: CONFIRMATION OF MINUTES

Confirmation of the minutes of the previous sitting was deferred to the next meeting.

MIN.NO.NA/PIC-CA&E/2026/043: CONSIDERATION OF THE 4TH DRAFT REPORT FOR SELECTED STATE CORPORATIONS

The Committee, having considered the 4th Draft Report and incorporated the necessary observations and recommendations, resolved to adopt the reports of the following agencies: -

i. **Rural Electrification and Renewable Energy Corporation** for FY 2018/2019 to 2022/2023

ii. **Kenya Electricity Transmission Company for** FY 2018/2019 to 2022/2023

iii. **Kenya Power & Lighting Company** for FY 2018/2019 to 2022/2023

iv. **Kenya Electricity Generating Company** for FY 2020/2021 to 2021/2022

v. **Nuclear Power & Energy Agency Report** for FY 2019/2020 to 2020/2021

The adoption was proposed by Hon. Paul Kahindi, M.P. and seconded by Hon. Charo Kazungu Tungule, M.P.

MIN.NO.NA/PIC-CA&E/2026/044: ADJOURNMENT

The meeting was adjourned at 3:35 p.m. The next meeting will be held on notice.

Signed: .....

HON. DAVID PKOSING, CBS, M.P.
Chairperson
Date: 31/03/2026

MINUTES OF THE 18TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON THURSDAY, 26TH JUNE 2025 IN 4TH FLOOR, CONTINENTAL HOUSE, MAIN PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Dr. John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. Dr. Babu Owino Paul Ongili, M.P
4. Hon. Esther Muthoni Passaris, M.P.
5. Hon. David Kiplagat M.P.
6. Hon. Duncan Mathenge Maina, M.P
7. Hon. Yusuf Mohamed Farah, M.P

APOLOGIES

1. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P
3. Hon. Sarah Paulata Korere, M.P
4. Hon. Dr. Beatrice Adagala, M.P
5. Hon. Paul Kahindi Katana, M.P
6. Hon. Charo Kazungu Tungule, M.P
7. Hon. Betty Njeri Maina, M.P
8. Hon. Ronald Kamwiko Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Ms. Wanjiru Mwaura	-	Principal Clerk Assistant I
2.	Mr. Ahmad Guliye	-	Clerk Assistant I
3.	Mr. Andrew Kipchumba	-	Clerk Assistant III
4.	Ms. Angela Musau	-	Legal Counsel II
5.	Ms. Gladwel Amimo	-	Research officer III
6.	Mr. Brian Njeru	-	Fiscal Analyst II
7.	Ms. Mercyline Kerubo	-	Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1.	Mr. Daniel Kuria	-	DDA
2.	Mr. James Ndumo	-	Officer
3.	Ms. Jackline Omure	-	Principal Auditor

INSPECTORATE OF STATE CORPORATION

Mr. James Sitieney - Officer

NAIROBI METROPOLITAN AREA TRANSPORT AUTHORITY

1. Mr. Francis Gitau - Director General
2. Mr. Joab Logemere - Director Corporate Services
3. Mr. Wycliffe Mabonyo - Principal Officer Accountant
4. Mr. Raphael Parsaoti - Finance Officer

MIN. NO. NA/PIC-CA&E/2025/078: PRELIMINARIES

The meeting was called to order at 10:35 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2025/079: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholders to the meeting.

MIN.NO.NA/PIC-CA&E/2025/080: CONFIRMATION OF MINUTES

This agenda was differed to the next meeting.

MIN.NO.NA/PIC-CA&E/2025/081: MEETING WITH THE MANAGING DIRECTOR, NAIROBI METROPOLITAN AREA TRANSPORT AUTHORITY TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2019/2020 TO FY 2022/2023

The management of NaMATA , led by the Director General Mr. Francis Gitau appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2019/20 to FY FY 2022/23.

FY 2019/2020

1. Budgetary Control and Performance

The summary statement of comparison of budget and actual amount reflects final receipts budget and actual on comparable basis of Kshs.1,134,300,836 and Kshs.602,186,989 respectively resulting to an under-funding of Kshs.532,113,847 or 47% of the budget. Similarly, the Fund spent Kshs.141,180,483 against an approved budget of Kshs.602,186,989 resulting to an under-expenditure of Kshs.466,871,346 or 78% of the budget. Further, the statement does not reflect percentages of underfunding and under-expenditures.

Management Response

The management acknowledges that the Statement of Comparison of Budget and Actual Amounts did not disclose the percentages of underfunding and under expenditure, which has since been noted for correction in future financial reporting to enhance transparency and ease of analysis.

The underfunding was primarily due to, lower-than-expected disbursements from the National Treasury. This factor was beyond the control of the Authority and directly impacted the availability of resources to implement planned activities.

The Authority has strengthened its collaboration with The National Treasury to enhance the predictability and timeliness of disbursements. Additionally, budget planning processes have been improved to include more accurate revenue forecasting.

The Authority currently prepares its financial statements in compliance with IPSAS requirements, including the disclosure of percentage variances.

Committee Observation

The Committee noted the underfunding and percentage of underfunding in the budget had been properly addressed, however the under-expenditure of the disbursed amount had not been addressed.

Committee Recommendation

I. The Committee directed the management to provide proper response with evidence regarding the un-utilized Kshs. 466,871346 of the disbursed amount.
II. The response to be submitted to the Clerk's Office and the OAG by 4th July 2025 for verification.

2. Mismanagement in Issuance of Imprest

The statement of financial position reflects receivables from non-exchange transactions of Kshs.7,797,824 which represents outstanding imprest that ought to have been surrendered on 30 June, 2020 but were still outstanding as at the end of the financial year. Further, two officers were issued with additional imprests without accounting for previous imprest issued to them contrary to Section 92(4)(b) and (5) of the Public Finance Management Regulations, 2015 which states that 'before issuing temporary imprests the Accounting Officer shall ensure that-the applicant has no outstanding imprests and that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station'

Management Response

We acknowledge that two officers were issued with additional imprests without having accounted for their previous imprests, contrary to the provisions of Section 92(4)(b) and 92(5) of the Public Finance Management (National Government) Regulations, 2015.

Management recognizes this lapse as a breach of established financial regulations and internal control procedures. The following remedial actions were initiated:

i. Review of Imprest Procedures: Internal imprest management procedures have since been reviewed and strengthened. A control checklist has been introduced to ensure no new imprests are issued without full accountability for any prior advances.
ii. The affected officers have since surrendered the imprests.

Committee Observation

An outstanding Imprest register detailing a breakdown of the outstanding Imprest of Kshs. 7,797,824 with supporting documents was provided.

Committee Recommendation

The matter stands resolved.

FY 2020/2021

3.Non-Compliance with Regulations on Imprest

Committee Observation

This is a recurring query and was handled in the FY 19/20

FY 2021/2022

5. Property, Plant and Equipment

Included in the balance are additions during the year totaling Kshs. 16, 164,550. However, review of records provided revealed that the Authority procured assets totaling to Kshs. 16,705,693 resulting in an unexplained variance of Kshs.541,143.

Management Response

Upon review, the variance is attributable to the inclusion of consumables within the Property, Plant, and Equipment. These items, while acquired during the year, do not meet the capitalization criteria under the applicable financial reporting standards and, therefore, should not have been recognized as part of Property, Plant, and Equipment. The items were expensed off in the subsequent year.

Committee Observation

The Committee was informed the accounting error occurred as a result of consumables inclusion in the property, plant and equipment in the financial statement, however, the management did not provide evidence to support their explanation.

Committee Recommendation

I. The Committee directed the management to provide a list of consumables amounting to Kshs. 541,143.

II. The response to be submitted to the Clerk's Office and the OAG by 4th July 2025 for verification.

6. Use of Goods and Services

Review of the expenditure records revealed the following anomalies;

i. Irregular Domestic Travel and Subsistence Expenditure

The expenditure includes amounts totaling Kshs.7,443,400 and Kshs.3,400,400 incurred on facilitation of officers from the State Department for Housing and Urban Development and on a retreat of a Parliamentary Committee respectively. No explanation on why the expenditure was charged to the Authority yet the State Department and the Parliamentary Service Commission have respective allocated budgets to cater for their activities.

In addition, amounts totaling to Kshs. 11,496,731 were paid to two officers on various dates and whose details on the nature of the activities undertaken were not provided.

Management Response

The inclusion of these expenditures under the Authority's budget was based on the collaborative nature of the activities undertaken, which were directly related to the Authority's mandate and strategic objectives. The facilitation of the State Department officers was in support of joint programs and technical engagements aligned with the Authority's implementation responsibilities, while the Parliamentary Committee retreat was part of stakeholder engagement and oversight processes involving matters under the Authority's purview.

Committee Observation

The Committee inquired whether the expenditure was contained in the budget and who organized for the stakeholder engagement event.

Committee Recommendation

I. The Committee directed the management to submit proof that Kshs.7,443,400 and Kshs.3,400,400 was approved in the line budget for stakeholder engagement activities, further, provide document detailing who organized the events.

II. The response to be submitted to the Clerk's Office and the OAG by 4th July 2025 for verification.

ii. Unsupported Foreign Travel and Subsistence Expenses

The expenditure on use of goods and services includes foreign travel and subsistence allowance of Kshs.4,336,714. However, review of the expenditure records revealed that expenditure amounting to Kshs.3,404,034 was incurred on purchase of air tickets. It is however, not clear where the respective foreign subsistence allowances were accounted.

Management Response

It is noted that Kshs. 3,404,034 of this amount was spent on the purchase of air tickets, while the corresponding foreign subsistence allowances were not clearly accounted for in the records reviewed.

The air ticket expenses were correctly recorded as part of foreign travel costs. The balance of Kshs. 932,680 relates to subsistence allowances paid directly to officers undertaking official assignments abroad.

Committee Observation

The boarding passes and payment warrants supporting the foreign travel was provided.

Committee Recommendation

The matter stands resolved.

iii. Irregular Hospitality Supplies and Services

Included in the use of goods and services expenditure is Kshs.11,053,210 in respect of hospitality supplies and services out of which amounts totaling Kshs. 1,982,800 were in favor of officers from the for-State Department for Housing and Urban Development on various dates for hospitality services. No explanation on why the expenditure was charged to the Authority yet the State Department has an allocated budget to cater for activities of its officers. In addition, amounts totaling to Kshs. 1,999,220 were paid to an officer on various dates but whose details of activities undertaken were not provided.

Management Response

The expenditure in favour of State Department officers was incurred in the context that the officers were on secondment and were engaged in activities directly related to the Authority's programs and aligned to the Authority's mandate.

Regarding the payments made to the officer totaling Kshs. 1,999,220, we confirm that all supporting documentation, including approved memos, imprest warrants, and surrender registers has since been submitted for audit review.

Committee Observation

The management provided approved memo for the activity with the list of participants, surrender of Imprest and receipts of the expenses.

Committee Recommendation

The matter stands resolved.

7. Board Expenses

The statement of financial performance and Note 9 to the financial statements reflects Board expenses of Kshs.7,258,300. However, review of the expenditure revealed that an amount of Kshs.

1,660,000 was in respect to expenses incurred in the financial year 2020/2021. No explanation was provided for the anomaly.

Management Response

While the expenditures were legitimate and directly related to board activities, we acknowledge that they should have been recognized in the financial year to which they relate; however, the Authority was using a Cash basis of accounting that required an expenditure to be recognized once the payment was made and therefore the expenditure could not be accounted for in 2020/2021. However, it was moved to the subsequent year when the Authority adopted the accrual basis of accounting, as prescribed by the applicable financial reporting framework.

Committee Observation

The Committee noted the anomaly was due to migration from cash accounting basis to accrual basis, nonetheless the expense was recognized in the subsequent year.

Committee Recommendation

The matter stands resolved.

8. Unapproved Over Expenditure

The statement of comparison of budget and actual amounts reflects final recurrent expenditure budget and actual on comparable basis of Kshs.80,000,000 and Kshs. 111,174,112 respectively resulting in an over-expenditure of Kshs.31,174,112 or 39% of the budget. Similarly, the Authority spent Kshs.2,491,693,105 on capital or development expenditure against an approved budget of Kshs.700,000,000 resulting to an over-expenditure of Kshs. 1,791,693,105 or 256% of the budget. Management did not provide the approval for the over-expenditure of Kshs. 1,822,867,217.

Management Response

The significant variance in capital expenditure was primarily due to a shift from cash-based accounting to the accrual basis. Initially, the figure was recognized after cash had been paid to the contractor, and not the value of the work that was certified comprising of IPC 02, 03, 04 and 05. By preparing the financial statements on an accrual basis, the value of work certified had to be recognized, and hence, the unpaid amount becomes an amount payable.

The recurrent expenditure overrun was supported by an approval through the office of the PS Housing is allowed by allowed by Section 43(2) of the Public Finance Management Act to reallocate appropriate funds to or from a program or a sub-vote.

Committee Observation

The Committee noted the management had provided interim payment certificate for the works done, however they did not provide the approval from the Principal Secretary for the over expenditure.

Committee Recommendation

The management to submit the approval from the Principal Secretary for the over expenditure to the Clerk's Office and the OAG by 4th July 2025 for verification.

9. Anomalies in the Implementation of Bus Rapid Transport (BRT) Line 2 Project

As at the time of audit in January, 2023, the total certified works amounted to Kshs.2,913,685,946 representing 52% of the contract sum out of which the contractor had been paid Kshs.1,001,876,795 or 34% of the certified amount. Due to the delays in payment for certified works the contractor abandoned works at all the sites for almost one year which resulted in the project falling behind schedule and the contractor was not on site.

Further, review of project records and physical verification of the project revealed the following anomalies;

i. The project was to have three elevated U-turn ramps interchanges at Ruiru, Githurai and Kenyatta National Hospital. Although, the Authority developed bills of quantities and awarded the works, acquisition of land for the proposed sites for the ramps was not complete and no work had commenced on the three interchanges and U-turn ramps.
ii. The project was to have modification on the existing ten footbridges. However, as at 1 March, 2023 the works had only begun on five footbridges with completion status being below 20% on each of the five footbridges.
iii. There was no project status report prepared in line with the project scope of works as detailed in the contract document.

In the circumstances, the project risks incurring additional unquantified cost in form of interest and penalties due failure to settle invoiced bills and value for money on resources already incurred on the project could not be confirmed.

Management Response

The contract for the Design and Build Project for the Bus Rapid Transit (BRT) Facilities along the Thika Superhighway Corridor between NaMATA and Stecol Corporation SMEDI – Joint Venture was signed on 6th July 2020, with a duration of 18 months and a contract value of Kshs. 5,575,071,799. However, in subsequent financial years, the development budget allocations for the project were reduced from Kshs 1,050,000,000 to zero. This has resulted in a significant accumulation of pending bills and has led to the suspension of works by the contractor. The Authority has made multiple written appeals to both the National Treasury and the National Assembly for additional funding, and the matter remains under consideration.

Committee Observation

The Committee noted the stalled implementation of Bus Rapid Transport (BRT) Line 2 Project was due to budgetary constraints.

Committee Recommendation

The matter remains unresolved and the OAG to keep in view.

10. Irregular Payment of Acting Allowances

During the year under review, the Authority incurred Kshs.23,028,883 on acting allowances for staff deployed to the Authority in an acting capacity from the State Departments and the Counties within the Metropolitan Area. Most of these staff were deployed in the Authority in the year 2017 and therefore have been on acting capacity for over four (4) years contrary to the recommendation of Human Resource Policies and Procedures Manual for the Public Service, May, 2016 that stipulates that acting allowance should not be payable to an officer for more than six (6) months.

Further, the allowances paid as acting allowances to staff amounting to Kshs.23,542,883 were not subjected to income tax as required by Section 37 (1) of the Income Tax Act Cap 470 of the laws of Kenya that states that an employer paying emoluments to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

Management Response

According to clause 4.6.5 of the NaMATA HR Manual, an appointment on an acting basis shall be limited to six months OR until a vacant post is filled, whichever is earlier, BUT **may be extended by the Board or the Director General if the post remains vacant** as captioned hereunder.

The deployed staff were still performing duties of higher posts with the consent of the Board and the Director General. The positions remained vacant and thus officers were entitled to the payment of acting allowances. The payment of the acting allowances was therefore consistent with the provisions of the Authority's HR Manual.

Committee Observation

The Committee noted the management had not provided evidence for the approval of extension of acting positions beyond the stipulated six months. Further, the management did not respond to non-payment of the income tax.

Committee Recommendation

I. The Committee directed NaMATA to submit the Board resolution extending the contracts and provide response to non-payment of income tax.
II. The response to be submitted to the Clerk's Office and the OAG by 4th July 2025 for verification.

11. Composition of the Board of Directors

Review of composition of the current Board of Directors indicates that it does not include three (3) independent persons who are to be appointed by virtue of their knowledge and experience in transport, law, intelligent transport systems, civil engineering, traffic engineering, economics, urban design, planning and management or any other relevant field as required by Section 8(1)(f) of the Nairobi Metropolitan Area Transport Authority Order, 2017.

Management Response

The NaMATA Board consists of 12 members, three (3) of whom are independent members appointed by the Nairobi Metropolitan Area Council.

The appointment of the three (3) independent Board Members made by the Nairobi Metropolitan Area Council was challenged vide Petition No. E031 of 2021 whereby the court impugned their appointment by quashing the Gazette Notice vol. CXXIII No. 42 No. 1714 dated 5th February 2021 through a judgment delivered on 21st September 2021. Annexure 05/2022

The composition of 9 members meets the quorum threshold stipulated in Section 8(1) of the State Corporations Act to conduct board business, which requires at least two-thirds of the total number of members of a Board or the number nearest to but not less than two-thirds.

However, the board has been properly constituted after the appointment of three new independent directors vide Gazette notice Vol. CXXV- No. 170 dated 20th July 2023.

Committee Observation

The Committee noted there was a court moratorium in place at the time that hindered the appointment of the three Directors, however the Board was properly constituted vide gazette notice dated 20th July 2023.

Committee Recommendation

The matter stands resolved.

12. Operations and Management of the Authority

Although, the Authority has indicated that it has developed an integrated public transport strategy for the Metropolitan Area and a Strategic Plan as required by Section 5(1) and Section 7(d) of The Nairobi Metropolitan Area Transport Authority Order, 2017 respectively. These documents were not provided for audit review.

Management Response

The Authority has in place the following

i. The Authority's Public Transport Strategy for the Metropolitan area was developed through the Mass Rapid Transit System Harmonization Study for the Nairobi Metropolitan Area.
ii. A strategic Plan for the period 2019-2023.

Committee Observation

The management submitted *the Public Strategy for the Metropolitan Area* and *a Strategic Plan 2019-2023* documents.

Committee Recommendation

The matter stands resolved.

13. Failure to Automate Operations

Review of the Authority's operation environment and record keeping revealed that financial and accounting records are managed and maintained manually. Financial reports, ledgers, trial balance, budgets and financial statements were prepared manually which makes them prone to errors and manipulation. Further, there was no evidence of information protection or back up.

Management Response

The concern raised regarding the lack of evidence for information protection and data backup systems. Ensuring the integrity, confidentiality, and availability of financial data is of utmost importance to the Authority.

The transition to a computerized accounting system has been fully planned. The Authority has selected a vendor and is in the final stages of implementation.

Committee Observation

The management informed that they had procured a vendor to automate the system and plan to migrate to the system in July 2025.

Committee Recommendation

The Committee directed the OAG to check the status of the automation in the subsequent audit cycle.

14. Failure to Update the Authority's Asset Register

Review of the asset register provided for audit revealed that assets procured during the period between 1 January, 2022 and 30 June, 2022 had not been updated. Further, the asset register did not include the assets' serial number(s) or tag number(s) for identification as required by the Public Procurement and Asset Disposal Regulations, 2020.

Management Response

It is correct that assets procured between 1 January 2022 and 30 June 2022 had not been updated in the register at the time of the audit. We also recognize that the omission of serial numbers and tag numbers for identification purposes does not align with the requirements of the Public Procurement and Asset Disposal Regulations, 2020.

The asset register is currently updated and includes all assets procured during the stated period, with full details including acquisition dates, values, and responsible users.

Committee Observation

The Committee was informed that all the assets had been updated in the register, however the updated register was not provided.

Committee Recommendation

The management to submit an updated asset register to the Clerk's Office and the OAG for verification by 4th July 2025.

FY 2022/2023

15. Long Trade and Other Payables

The statement of financial position reflects trade and other payables balance of Kshs. 2,198,292,930 which includes payables amounting to Kshs. 1,943,198,298 or 88% of the payables that has been outstanding for a period between 1 and 2 years. These payables relate to the contractor who designed and built the Bus Rapid Transit (BRT) facilities on Thika Super Highway corridor.

Management Response

The delay in settlement was mainly attributed to budgetary constraints during the period under review, during which development allocations were reduced to zero. As a result, the Authority was unable to meet its financial obligations as scheduled, leading to the suspension of works by the contractor.

The management has made several formal requests to the National Treasury and the National Assembly for additional funding, adequate allocations have not yet been provided.

Committee Observation

The Committee noted the long trade and other payables was due to budgetary constraints.

Committee Recommendation

The matter remains unresolved and the OAG to keep in view.

16. Unapproved Expenditure

Management did not provide approvals for reallocation of funds from The National Treasury contrary to Regulation 44 (2) of the Public Finance Management (National Government) Regulations, 2015 which provides that National Government entities shall execute their approved budgets based on the annual appropriation legislation, and the approved annual cash flow plan.

Management Response

The Authority acknowledges the observation regarding the reallocation of funds and the requirement for documented approval from the National Treasury in accordance with Regulation 44(2) of the Public Finance Management (National Government) Regulations, 2015. However, contrary to the assertion, the budget reallocation was duly approved by the National Treasury.

Committee Observation

The management provided a budget approval letter from the Cabinet Secretary dated 3/4/2023.

Committee Recommendation

The matter stands resolved.

17. Stalled Implementation of Bus Rapid Transport (BRT) Line 2 Project
Committee Observation

This is a recurring query and was handled in the FY 21/22

18. Failure to Automate Operations

Committee Observation

This is a recurring query and was handled in the FY 21/22

MIN.NO.NA/PIC-CA&E/2025/082: ADJOURNMENT

There being no other business, the meeting was adjourned at 01:00 pm. The next meeting will be held on notice.

Signature .....

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 29/07/2025

MINUTES OF THE 19TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY, 1ST JULY 2025 ON 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Dr. John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
4. Hon. Festus Mwangi Kiunjuri, EGH, M.P
5. Hon. Esther Muthoni Passaris, M.P.
6. IIon. Paul Kahindi Katana, M.P
7. Hon. Betty Njeri Maina, M.P
8. Hon. Charo Kazungu Tungule, M.P
9. Hon. David Kiplagat M.P.
10. Hon. Duncan Mathenge Maina, M.P

APOLOGIES

1. Hon. Sarah Paulata Korere, M.P
2. Hon. Dr. Babu Owino Paul Ongili, M.P
3. Hon. Dr. Beatrice Adagala, M.P
4. Hon. Ronald Kamwiko Karauri, M.P
5. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Ms. Wanjiru Mwaura	-	Principal Clerk Assistant I
2.	Mr. Ahmad Guliye	-	Clerk Assistant I
3.	Mr. Andrew Kipchumba	-	Clerk Assistant III
4.	Ms. Angela Musau	-	Legal Counsel II
5.	Dr. Benjamin Ngimor	-	Senior Fiscal Analyst
6.	Mr. Timoty Chiko	-	Research officer III
7.	Mr. Brian Ojaamong	-	Media Relations Officer
8.	Ms. Roslyne Ndegi	-	Serjeant-At-Arms
9.	Ms. Mercyline Kerubo	-	Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1.	Mr. Fredrick Omondi	-	DDA
2.	Mr. Walter Owele	-	Principal Auditor
3.	Mr. Felix Itone	-	Liaison Officer

THE NATIONAL TREASURY

Ms. Catherine Nzioki - Officer

INSPECTORATE OF STATE CORPORATION

Mr. Edwin Murimi - Officer

KENYA ELECTRICITY GENERATING COMPANY (KENGEN)

1. Eng. Peter Njenga - Managing Director
2. CPA Mary Maalu - GM Finanace
3. CPA David Mwangi - Manager Finance
4. Ms. Monicah Karanja - Officer
5. CPA Erick Itudi - GM Internal Audit
6. Ms. Beatrice Kandie - GM Corporate Service
7. Ms. Elizabeth Njenga - GM BDS

MIN. NO. NA/PIC-CA&E/2025/083: PRELIMINARIES

The meeting was called to order at 10:30 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2025/084: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholders to the meeting. He stated that two years were under review.

MIN.NO.NA/PIC-CA&E/2025/085: CONFIRMATION OF MINUTES

This agenda was differed to the next meeting.

MIN.NO.NA/PIC-CA&E/2025/086: MEETING WITH THE MANAGING DIRECTOR, KENYA ELECTRICITY GENERATING COMPANY TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2021/2022 AND FY 2022/2023.

The management of KENGEN, led by the Managing Director Eng. Peter Njenga appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2021/22 and FY 2022/23.

FY 2021/2022

1.0. **Land Without Ownership Documents**

The balance includes a parcel of land measuring 12.39 hectares and valued at Kshs.550,000,000 which did not have ownership documents or a title in the name of the Company. Management explained that the initial title deed was held under lien by a lawyer due to a dispute in legal fees with the original owners of the land.

Further, information available indicate that the leasehold tenure of the land expired in 1991 but had not been renewed due to lack of the title deed.

Management Response

The legal fees dispute between KPLC and its lawyer impeded the timely conclusion of the transfer process. However, KenGen on the 23rd of March 2023, secured a lease from the Ministry of Lands registered in its name for 50 years from 1991. The same was signed on 27th March 2023 & KenGen applied for the registration of the lease agreement. A new certificate of title in favor of KenGen was issued on 5th April 2023. Attached is the Certificate of title and the deed plan.

Committee Observations

I. The Committee noted the management had submitted ownership documents for the stated land, however the authenticity of the documents was queried.
II. The Committee inquired from the management why the lease granted was for fifty years instead of the standard ninety-nine years.

Committee Recommendations

I. The management of KENGEN to submit the following;
   (i.) the original title of the land;
   (ii.) give the history of the land and how it was transferred to KENGEN, further, provide transfer instruments if any;
   (iii.) explain the reason for the fifty years granted in the certificate of title; and,
   (iv.) provide the history of the legal dispute, state if there is any liability owed to the lawyer and how the dispute was concluded.
II. The management were granted upto 15th July 2025 to submit the documents to the Clerk's office and the OAG for verification.

2.0. Variances on Balance with Related Entities

As disclosed on Note 21 to the financial statements, the statement of financial position reflects gross amounts due from The Kenya Power and Lighting Company (KPLC) amounting to Kshs.23,582,383,000 as billed from the respective Power Purchase Agreements (PPAs) between the two companies. However, the financial statements for KPLC reflects a balance of Kshs.23,147,261,000 resulting to a variance of Kshs.435,122,000.

Further, the statement reflects an amount of Kshs.655,478,000 due to Geothermal Development Corporation (GDC) as disclosed on Note 37(b) to the financial statements. However, review of records held by GDC reflects an amount of Kshs.730,058,000 resulting in a variance of Kshs.74,580,000.

Management Response

a) The Kenya Power and Lighting Company (KPLC)

KenGen and KPLC reconciled the balances owed between each other to KShs. 22,560,530,693.95 as at 30th June 2023. Attached is KPLC confirmation of the same and a reconciliation signed by both parties. The same balance is reflected in KenGen financials statement for the period ended 30th June 2023 under note 37 (a). KShs 22,560,530,693.95 & 30th June 2024

b) Geothermal Development Corporation (GDC)

The reconciliation was done, and the variance has since been agreed between KenGen and GDC. As at 30th June 2023, the amount owed to GDC in KenGen books note 37 (b) is KShs 2,212,437,352.04 while as per the attached GDC confirmation the amount is KShs 2,184,279,886.73. The difference of KShs 28,157,465.31 is the exchange rates used to convert the USD balances as per the attached reconciliation between KenGen and GDC.

Status: The audit matter is now closed.

Committee Observations

I. The Committee raised concerns as to why two agencies within the country were transacting using foreign currency, further, the exchange rate applied by both institutions differed yet there was a standardized rate by the CBK to guide them.
II. The Committee noted that the two entities needed to have an agreed exchange rate between them for uniformity of reporting.

Committee Recommendations

I. The Committee directed the OAG to confirm the exchange rate applied on the specific dates the transactions were effected and compare it with the Central Bank of Kenya exchange rate on those material days and carry out a reconciliation.
II. The OAG to report back to the Committee in the subsequent meeting.

3.0. Financial Assets held at Amortised Cost-Contract Asset

Included in financial assets is a contract asset as detailed at Note 18(b) to the financial statements amounting to Kshs.4,595,112,000 relating to the Olkaria IV and I AU substation. The construction of the assets was done by the Company and completed in the year 2015. The asset has been utilized by Kenya Electricity Transmission Company Ltd (KETRACO) since completion in the year 2015 for evacuation of power from Olkaria to the National grid.

The asset construction and implementation agreement indicated that the Company was to sign a novation agreement with KETRACO that would govern the transfer of assets in fulfilment of obligations thereof.

Management Response

The construction of Olkaria I Unit 4&5 and Olkaria IV Transmission Lines and Substations on behalf of KETRACO was financed using funds from EIB on-lent loan, KfW direct guaranteed loan and KenGen internal funds. The National Treasury signed the Subsidiary Loan Agreement (SLA) on 28th June 2024, thereby accepting to take over EIB loan equivalent to the debt owed by KETRACO of EURO 36,897,459.74.

The final signature by National Treasury paved the way to extinguish the contract asset relating to KETRACO debt owed to KenGen for Olkaria I Unit 4&5 and Olkaria IV Transmission Lines and Sub-stations. As at 30th June 2024, the asset and the corresponding Loan of Euro. 36,897,459.74 Equivalent to Kshs.5,123,798,954.51 had been extinguished from KenGen's Books by offsetting the debt that financed the asset against the KETRACO Debt.

Committee Observation

The Committee noted the novation agreement had been signed and the asset managed by KETRACO which had a special tariff to service the loan.

Committee Recommendation

The Committee directed the OAG and the National Treasury to confirm whether KETRACO was servicing the loan and report back to the Committee in its subsequent meeting.

4.0. Non-Recognition of Power Tariff Reduction Contribution

During the year under review, a Presidential Directive was issued to the Energy Sector to implement a 15% tariff reduction for all customer categories, which was effected through Gazette Notice No. 64 dated 7 January, 2022.

The Board of Directors agreed to contribute an amount of Kshs.3,500,000,000 through fair reduction of invoices to The Kenya Power and Lighting Company PLC (KPLC) who would in turn transfer the benefits to consumers. KPLC implemented the tariff reduction from January, 2022 in line with the directive. However, Management of the Company did not implement the cost reduction measures as per the commitments, which implies that the reported revenues are overstated by Kshs.1,750,000,000 which would have been the Company's contribution due to The Kenya Power and Lighting Company, PLC which has already implemented the full reduction on behalf of other Energy Sector players.

Management Response

Out of KShs 3,500,000,000, KenGen paid KPLC KShs 2,954,106,816 in the month of June 2023 through a credit note as per the attached letter dated 16th June 2023 (Appendix 4). The balance of KShs. 545,893,184 was paid to KPLC through a tariff adjustment for Olkaria 1 power plant and Muhoroni GT that was approved by EPRA. Attached is a letter from EPRA confirming the same.

Committee Recommendation

The query was stepped down and the OAG were directed to provide further clarification on Kshs.1,750,000,000 stated in the query.

5.0. Work in Progress – Feasibility Studies

The statement of financial position reflects work in progress balance of Kshs.57,071,097,000 which, as disclosed in Note 15(a) to the financial statements Report of the Auditor-General on Kenya Electricity Generating Company PLC for the year ended 30 June, 2022 7 includes an expenditure of Kshs.623,495,100 in respect of feasibility studies. However, eight (8) feasibility studies at a total cost of Kshs.377,999,568 were conducted between five (5) to ten (10) years ago and were yet to be implemented as capital projects. Management has not explained the reason for delay in implementation of the projects. In the circumstances, the Company has not obtained value for money on expenditure of Kshs.377,999,568 incurred on feasibility studies.

Management Response

Management has instituted measures to fast-track implementation of projects that are deemed viable from the feasibility studies. A summary with a status update on the feasibility studies of the eight projects provided.

Committee Observations

I. The Committee noted that KENGEN had incurred huge cost on the feasibility studies yet most of the projects had not taken off, further, the full payment of these studies was of concern.
II. The Committee inquired whether there were Terms of Reference and risk analysis carried out on the feasibility studies before being undertaken.
III. The management informed that feasibility studies was crucial in building their repository of the energy potential in the Country. Further, they stated that they carry out pre-assessment studies, and the same is factored in their strategic and procurement plans.

Committee Recommendations

I. The Committee directed the management of KENGEN in regards to projects (no. 3 Meru Wind Phase I), (no. 4 Ngong I Phase 3) and (no. 5 Karura Hydro Power Plant) to submit the following documents;
   (i.) The company/persons that carried out the feasibility studies
   (ii.) The contract between Kengen and the parties for the stated projects
   (iii.) The advert inviting eligible bidders to carry out the feasibility study for the stated projects.
II. Further, in regards to project no. 4. Ngong I, provide details on the number of wind turbines to be demolished, the letter from Kenya Civil Aviation Authority on decommissioning of existing turbines and the cost of setting up one wind turbine.

III. The Committee directed in the next meeting with KENGEN that the KCAA be invited to address issues raised on the Ngong Wind power project.

MIN.NO.NA/PIC-CA&E/2025/087: ADJOURNMENT

There being no other business, the meeting was adjourned at 01:39 pm. The next meeting will be held on notice.

Signature .....

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 29/07/2025

MINUTES OF THE 23RD SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY, 9TH JULY 2025 IN 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Dr. John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
4. Hon. Festus Mwangi Kiunjuri, EGH, M.P
5. Hon. Dr. Babu Owino Paul Ongili, M.P
6. Hon. Paul Kahindi Katana, M.P
7. Hon. David Kiplagat M.P.
8. Hon. Yusuf Mohamed Farah, M.P

APOLOGIES

1. Hon. Sarah Paulata Korere, M.P
2. Hon. Dr. Beatrice Adagala, M.P
3. Hon. Esther Muthoni Passaris, M.P.
4. Hon. Betty Njeri Maina, M.P
5. Hon. Charo Kazungu Tungule, M.P
6. Hon. Duncan Mathenge Maina, M.P
7. Hon. Ronald Kamwiko Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Mr. Ahmad Guliye	-	Clerk Assistant I
2.	Mr. Andrew Kipchumba	-	Clerk Assistant III
3.	Ms. Angela Musau	-	Legal Counsel II
4.	Mr. Brian Njeru	-	Fiscal Analyst II
5.	Mr. Timothy Chiko	-	Research Officer III
6.	Mr. Amos Tindi	-	Hansard Reporter II
7.	Ms. Roslyne Ndegi	-	Serjeant-At-Arms
8.	Mr. Brian Ojamaa	-	Media Relations Officer
9.	Ms. Mercyline Kerubo	-	Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1.	Mr. Jared Nyasani	-	DDA
2.	Mr. Daniel Kuria	-	Principal Auditor
3.	Ms. Laura Manyala	-	Senior Auditor
4.	Ms. Grace Ewoi	-	Senior Auditor

THE NATIONAL TREASURY

Mr. Stephen Munyao - Officer

KENYA POWER AND LIGHTING COMPANY PLC (KPLC)

1.	Dr. (Eng) Joseph Siror	–	CEO
2.	CPA Stephen Vikiru	-	GM Finance
3.	Mr. Haroon Otieno	-	Ag. GM Supply Chain
4.	Mr. Richard Biwott	-	Officer Finance
5.	Mr. Peter Muchiri	-	Officer Supply Chain
6.	Ms. Cecilia Muchiri	-	GM HR & ADM
7.	Mr. David Syengo	-	Head of Transformation

MIN. NO. NA/PIC-CA&E/2025/103: PRELIMINARIES

The meeting was called to order at 10:29 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2025/104: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholders to the meeting. He stated the Committee would examine the audited accounts of KPLC for the FY 18/19 to FY 22/23.

MIN.NO.NA/PIC-CA&E/2025/105: CONFIRMATION OF MINUTES

This agenda was differed to the next meeting.

MIN.NO.NA/PIC-CA&E/2025/106: MEETING WITH THE CHIEF EXECUTIVE OFFICER, KENYA POWER AND LIGHTING COMPANY TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2018/2019 to FY 2022/2023.

The management of REREC, led by the CEO Dr. (Eng) Joseph Siror appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 18/19 to FY 22/23.

<u>FY 18/19</u>

1. Uncertainty Relating to Going Concern

The Company has remained in a negative working capital position for the third consecutive year. As disclosed by the Board and Management in the past and current financial statements, strategic initiatives have been undertaken to improve the financial results of the Company. However, these initiatives appear not to have yielded the intended results.

Management Response

During the period under review, the Company was experiencing working capital challenges primarily due to significant capital expenditure between 2014 and 2018, undertaken in support of the Government's universal electricity access agenda and generation expansion (5000MW+) program. Medium-term commercial borrowing was used to finance long-term infrastructure projects, thereby exacerbating the net current liability position.

The Board and management undertook several key strategic initiatives to improve the financial health of the Company, these included

i. Stemming the increase in system losses during the financial year 2019/2020 and thereafter adopting a loss reduction path with a target of 0.5% annual reduction as prescribed by the regulator. This was to be achieved through various initiatives including; load balancing and optimal dispatch of generation as well as commissioning of new feeders to de-load heavily loaded feeders.

ii. Pursue roll-over of the existing money market debt facilities to ease pressure on cash flows and facilitate scheduled repayment of other commercial and guaranteed debt.

iii. Intensify debt collection and revenue protection though realignment of resources and the use of technology by deployment of smart meters on a gradual basis. This is in addition to launching of "Know Your Meter" and "Meter inspection" campaigns to identify and resolve illegal connections, un-metered supply and faulty meters. These campaigns were carried out using internal resources including all staff participating in field days.

iv. The Company had already restricted capital spending to critical projects and encouraged capital contributions from quoted customers and expedited the connection process for mutual benefit.

v. The Company also pursued an optimal balance between generation and electricity demand by engaging the key stakeholders. At the same time, it continued to enhance demand creation initiatives by focusing on premium customers and improving supply reliability; and

vi. There was also active engagement with the Regulator (EPRA) and other stakeholders on the critical need for a cost reflective tariff including the restructure of the life-line band and review of allowed system losses to reflect the grid dynamics.

In conclusion, the strategic initiatives implemented by the Board and Management along with interventions by the government have seen the company's financial position improve quite significantly, its working capital position has improved from a low of negative Ksh 75 billion in 2020 to negative Ksh 27 billion in 2024. We also commenced the repayment of the GoK on-lent loans that were on a moratorium from March 2020 and reported a profit after tax of Ksh 30 billion in June 2024.

Committee Observation

I. The Committee noted the management had made a raft of strategic changes in their operations which had greatly improved the organization financial position, whereby the moratorium on debt repayment had been lifted and dividends to shareholders paid in the year 2024 after a freeze of nine years this was after they generated a profit of Kshs. 30B.
II. The OAG informed the Committee that in the subsequent years there was improvement in the working capital and the cash flows.

Committee Recommendation

The Committee recommends the OAG to keep in view the query in future audit cycles.

2. Non-compliance with the Unclaimed Financial Assets Act, 2011

As reported in the prior year and as disclosed in Note 27 to the financial statements, the Company as at 30 June, 2019 held in their books financial assets amounting to Kshs.922,000,000 (2018:Kshs.1,729,000,000) under other payables of Kshs.10,319,188,000 (2018:Kshs.10,302,192,000). These assets include deposit refunds, unidentified receipts, unpaid customer electricity deposits , unpaid wayleaves compensation, unclaimed dividends and stale cheques, which ought to have been reported and submitted to the Unclaimed Financial Assets Authority (UFAA), as required by the Unclaimed Financial Assets Act, 2011 .

Management Response

Following this review and measures undertaken re-unite the assets with their rightful owners, the amount of qualifying unclaimed financial assets dropped from Ksh 1.7 billion in FY 2017/2018 to Ksh 922 Million in the FY 2018/2019.

The Company also reached out to the Authority (UFA) and was able to agree on a compliance path that commenced with capacity building for the KPLC team by UFA and thereafter quarterly submission to UFA in addition to the mandatory annual submission.

Committee Observation

The Committee noted the management had taken measures to ensure compliance with Unclaimed Financial Assets Act, 2011, this included capacity building of their staff on the act and re-uniting the assets with their rightful owners and this had led to unclaimed assets dropping by kshs. 778 million.

Committee Recommendation

The Committee recommends the OAG to keep matter in view in future audit cycles.

3. Non-compliance with the Capital Markets Authority Listing Rules

As reported in the prior year , the First Schedule of the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002 (Amended 2016) sets out the minimum

requirements for a company at the time of listing, as well as continuing obligations of the listed entity. The First Schedule provide that the listed company must have prepared financial statements for the latest accounting period on a going concern basis and that the related audit report must not contain any qualification or emphasis of matter in this regard.

Further, the Company must not be in breach of its loan covenants, particularly in regard to the maximum debt capacity and should have adequate working capital. However, the Company was in breach of certain borrowing covenants ratios as at 30 June, 2019. Management however obtained from the lenders the necessary waivers before 30 June, 2019, confirming the waiver of the lenders' right to demand immediate repayment of the loan, due to the breach of borrowing covenants.

Management Response

During the period under review, the Company's current liabilities exceeded its current assets, resulting in a breach of the current ratio borrowing covenant. In the short term, Kenya Power obtained waivers from the lenders for this breach prior to 30 June 2019.

The waiver letters confirmed that the lenders waived their rights to demand immediate repayment arising from the covenant breach for a period of at least twelve months from the date of issuance.

To address the negative working capital position, the Company implemented measures outlined under the section on "Uncertainty Relating to Going Concern." These efforts have led to a significant improvement, with the negative working capital reducing from Ksh 75 billion in 2020 to Ksh 27 billion in 2024.

Committee Observations

I. The Committee noted the management had made a raft of strategic changes in their operations which had greatly improved the organization financial position, whereby the moratorium on debt repayment had been lifted and dividends to shareholders paid in the year 2024 after a freeze of nine years this was after they generated a profit of Kshs. 30B.
II. The OAG informed the Committee that in the subsequent years there was improvement in the working capital and the cash flows.

Committee Recommendations

The Committee recommends the OAG to keep in view the query in future audit cycles.

4. Non-compliance with the Public Procurement and Asset Disposal Act, 2015

A review of procurement processes revealed that the Company executed a contract with a local firm for the provision of creative, production and media buying services at a cost of Kshs.55,890,600 in January, 2018. The services were procured through Direct Procurement contrary to Article 227 of the Constitution of Kenya and Section 103(1) of the Public Procurement and Asset Disposal Act, 2015.

No justification for the direct procurement method used was availed as there existed other providers of similar services in the market and there were no exclusively held rights for them, in the case of the services procured.

Management Response

There was a request for direct procurement with justifying reasons to procure directly from the supplier of creative production and media buying services as per the professional opinion dated 3rd October 2017. This is in accordance with section 103, 2 (d) of the Public Procurement and Asset Disposals Act 2015, where the services had been previously procured from a given supplier.

The considerations made were that the agency, having been awarded the previous tender, had met all KPLC's requirement in the delivery of the services required at reasonable cost. Onboarding of the agency was to provide a stop gap measure as the recruitment of a creative, media planner and buyer resource is effected within three months.

Committee Observations

The Committee noted the response provided by the management was not sufficient to address the justification for the direct procurement in accordance to section 103, 2 (d) of the Public Procurement and Asset Disposals Act 2015.

Committee Recommendations

The Committee directed the management of KPLC to submit the following documents;

(i.) The tender advert for the cancelled contract.
(ii.) The Contract between KPLC and SCANAD
(iii.) Copy of the court process, the pleadings of the plaintiffs and the determination of the court.
(iv.) Document of showing all the bidders who applied for the advertised tender.
(v.) The contract between Transcentury and the KPLC.
(vi.) Provide the names of the directors of SCANAD and Transcentury companies.
(vii.) Provide a clear response to the query and a justification for not waiting for the three months.
(viii.) Provide documents explaining the justification of spending the Kshs.55, 890,600 for the three months.
(ix.) Provide a list of the tender evaluation committee who made the decision to award the three month contract, their status in the organization and their opinion on the award of the contract.
(x.) Documents be submitted by 18/07/2025 to the Clerk's Office.

5. Control Weaknesses in Information Technology

The Company has implemented a number of Information Technology {IT) systems for its various operations. Review of these systems revealed control weaknesses, as listed below:

(i) There was inconsistent monitoring of super-user activity for four IT applications. Activities in the applications should be monitored using three software tools at both application and database levels. However, the operating system level activities were not being monitored while three of the four main IT applications had not been configured on the monitoring tool for user activity at application and database levels. Similarly, the monitoring tools were yet' to be configured, thus individual accounts/user IDs with powerful rights layer were not being monitored.

(ii) Reports generated by the tools and data maintained by the trigger tables were not reviewed frequently and in a timely manner by Management so as to understand issues flagged and how they were responded to by the information security team. This means that unauthorized or malicious activities performed in the databases, applications and operating systems may not be detected on time.

(iii) Audit logs and audit settings were not protected from access by privileged users making such users capable of changing audit settings without authorization and enabling unauthorized changes without being held accountable.

(iv) There were inadequate logical access controls and weak passwords parameters whereby password configurations of the operating systems databases and application of in-scope applications were not set in line with the password policy.

Management Response

Below are actions that were taken by the Company to address the identified control weaknesses;

(i) There was inconsistent monitoring of super-user activity for four IT applications.

- To mitigate the Super user activities risk, the Company implemented the trigger tables and manufacturer provided tools to manage the environment. Both Solaris and Oracle Database support triggers tables were implemented

- As per the Super User activity on various server platforms, ICT systems integrates with Internal Audit monitoring tools. The company uses a very powerful Security Information and Event Monitoring (SIEM) tool provided by IBM, namely IBM QRadar. We also installed a real-time database security and monitoring application to safeguard KPLC systems using a tool called IBM Guardium. Lastly, IBM Big fix was deployed to further secure the servers.

(ii) Reports generated by the tools and data maintained by the trigger tables were not reviewed frequently .

- The Company uses manufacturer's provided tools to manage the environment. Both Solaris and Oracle Database support triggers tables were implemented.

(iii) Audit logs and audit settings were not protected from access by privileged users.

- The DBA doubles up as the Systems Administrator. The 'AUDIT SYSTEM" & "AUDIT ANY" privileges are required to set auditing on system and non-system objects respectively. A mechanism was put in place to back up to tape the logs as they were written as a work-around. Only admin in IT security is responsible and accountable for DBA access rights.

(iv) There were inadequate logical access controls and weak passwords.

- The password complexity was implemented in all systems save for C&I which was not open to change by design.
- For Active Directory (AD), some service accounts, that were used by system automated background processes, were excluded from the restriction to ensure service continuity. However, with IBM Qradar cited above, the Microsoft ATP and ATA the above accounts were secured.

Committee Observations

The management of KPLC had instituted measures to safeguard the IT system, and the OAG confirmed there were improvements in place in subsequent years.

Committee Recommendations

I. The Committee directed the OAG in the next audit cycle to focus on assessing the system that that manages meters and check how secure is the system in safeguarding the customers.
II. The Committee recommends to the OAG to keep the matter in view in future audit cycles.

FY 2019/2020

6. Material Uncertainty Relating to Going Concern

Committee Observations

The audit query has been handled in FY 18/19

7. Capacity Charge on Power Purchase Agreements

Committee Observation

The Committee noted that the issue had been canvassed widely by various Committees of the Parliament of Kenya, which had recommended that forensic audits be conducted by the Office of the Auditor-General (OAG). The resulting reports had already been tabled before Parliament.

Committee Recommendation

The Committee resolved to examine these reports to guide it in making appropriate recommendations on the query.

8. Non-Compliance with the Unclaimed Financial Assets Act, 2011

Committee Observations

The audit query has been handled in FY 18/19

9. Non-Compliance with the Capital Markets Authority Listing Rules

Committee Observations

The audit query has been handled in FY 18/19

10. Power Losses in the System

Committee Observation

The Committee noted that the issue had been canvassed widely by various Committees of the Parliament of Kenya, which had recommended that forensic audits be conducted by the Office of the Auditor-General (OAG). The resulting reports had already been tabled before Parliament.

Committee Recommendation

The Committee resolved to examine these reports to guide it in making appropriate recommendations on the query.

11. Long Outstanding Accounts Receivables

Included in this balance, which relates to the current portion of the total receivables, are trade receivables of Kshs.25,193,650,000. Further, this figure includes Kshs.12,495 ,084,000 or 50% of the total receivables, which were outstanding for a period of more than ninety (90) days. Management indicates that measures have been put in place to enhance collection of amounts owed to the Company. However, until these measures yield results, the Company will continue holding long outstanding receivables, which have a negative impact on its liquidity.

Further, as disclosed under Note 21(b) and 36(b)(ii) to the financial statements, the statement of financial position reflects gross amounts due from the Government amounting to Kshs.16,563,693,000 (2019: Kshs.11,953,850,000 (restated). This balance, which relates to management of the Rural Electrification Scheme on behalf of the Government, is long outstanding and has accumulated over the years. Further, it is not clear why it has taken a significantly long period to recover the outstanding amounts which are at risk of becoming unrecoverable and impaired over time.

Management Response

The debt collection from electricity customers was a challenge as customers were unable to meet their bill payment obligations in time due to the effects of Covid-19.

KPLC also actively engaged the Government to ensure budget reallocation to Government institutions to ensure electricity bills owed by these institutions are settled.

The Management applied the negative impact of the time value for money owing to the time taken to settle the receivable by government. An impairment of Kshs 827 million in 2020 (2019 Kshs 575 million) was made in the financial statements.

Committee Observations

The Committee made the following observations:

(i) The financial statements reflected outstanding receivables from the Government amounting to Kshs. 30 billion as at 30th June, 2025, relating to the management of the Rural Electrification Scheme (RES);

(ii) Kenya Power and Lighting PLC operated 56 mini-grid generation stations, of which 30 are hybrid (diesel/solar), with the remaining being solar mini-grids; and

(iii) The hybrid generation stations were not functioning optimally due to non-functional lithium batteries and inadequate fuel storage infrastructure, resulting in frequent load-shedding and unreliable power supply to rural areas.

Committee Recommendations

I. The Committee resolved to convene a round-table meeting on 5th August, 2025 with key stakeholders:- The Cabinet Secretaries of The National Treasury and Energy &Petroleum; the Kenya Power and Lighting Company, the Rural Electrification and Renewable Energy Corporation and the Energy & Petroleum Regulatory Authority.

II. The Committee resolved to conduct a site visit to the mini-grids across the country to ascertain their operational status and functionality."

III. The Committee directed KPLC to provide the proposal they sent to the National Treasury regarding the funding of the replacement of the batteries and enlargement of the fuel tanks.

MIN.NO.NA/PIC-CA&E/2025/107: ADJOURNMENT

The meeting was adjourned at 2.02 p.m. The next meeting will be held the following day at the same time and venue.

Signature .....

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 29/07/2025

MINUTES OF THE 24TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON THURSDAY, 10TH JULY 2025 IN 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Dr. John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
4. Hon. Dr. Babu Owino Paul Ongili, M.P
5. Hon. Dr. Beatrice Adagala, M.P
6. Hon. Esther Muthoni Passaris, M.P
7. Hon. Paul Kahindi Katana, M.P
8. Hon. Duncan Mathenge Maina, M.P
9. Hon. Yusuf Mohamed Farah, M.P

APOLOGIES

1. Hon. Festus Mwangi Kiunjuri, EGH, M.P
2. Hon. Sarah Paulata Korere, M.P
3. Hon. Betty Njeri Maina, M.P
4. Hon. Charo Kazungu Tungule, M.P
5. Hon. David Kiplagat M.P.
6. Hon. Ronald Kamwiko Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Mr. Ahmad Guliye	-	Clerk Assistant I
2.	Mr. Andrew Kipchumba	-	Clerk Assistant III
3.	Ms. Angela Musau	-	Legal Counsel II
4.	Mr. Brian Njeru	-	Fiscal Analyst II
5.	Mr. Timothy Chiko	-	Research Officer III
6.	Mr. Amos Tindi	-	Hansard Reporter II
7.	Ms. Roslyne Ndegi	-	Serjeant-At-Arms
8.	Mr. Brian Ojamaa	-	Media Relations Officer
9.	Ms. Mercyline Kerubo	-	Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1.	Mr. Jared Nyasani	-	DDA
2.	Mr. Daniel Kuria	-	Principal Auditor
3.	Ms. Laura Manyala	-	Senior Auditor
4.	Ms. Grace Ewoi	-	Senior Auditor

KENYA POWER AND LIGHTING COMPANY PLC (KPLC)

1.	Dr. (Eng) Joseph Siror	–	CEO
2.	CPA Stephen Vikiru	-	GM Finance
3.	Mr. Haroon Otieno	-	Ag. GM Supply Chain
4.	Mr. Richard Biwott	-	Officer Finance
5.	Mr. Peter Muchiri	-	Officer Supply Chain
6.	Ms. Cecilia Muchiri	-	GM HR & ADM
7.	Mr. David Syengo	-	Head of Transformation
8.	Mr. Richard Biwott	-	Ag. GM Infrastructure

MIN. NO. NA/PIC-CA&E/2025/108: PRELIMINARIES

The meeting was called to order at 10:08 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2025/109: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholders to the meeting. He stated the Committee would examine the audited accounts of KPLC for the FY 18/19 to FY 22/23.

MIN.NO.NA/PIC-CA&E/2025/110: CONFIRMATION OF MINUTES

This agenda was differed to the next meeting.

MIN.NO.NA/PIC-CA&E/2025/111: MEETING WITH THE CHIEF EXECUTIVE OFFICER, KENYA POWER AND LIGHTING COMPANY TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2018/2019 to FY 2022/2023.

The management of KPLC, led by the CEO Dr. (Eng) Joseph Siror appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 18/19 to FY 22/23.

FY 2019/2020

1. Long Outstanding Trade Payables

As disclosed under Note 28(b) to the financial statements, the statement of financial position reflects current trade and other payables of Kshs.88,479, 128,000. Included in this balance are trade payables of Kshs.1,379,725,000, which have been long outstanding. Management attributes the non-payment to financial challenges which the Company has been going through. Further, Management indicates that the Company requested a moratorium on dividends payable to the Government, as part of initiatives under The National Treasury taskforce on sustainability of the Company, and the sector at large. However, until the recovery initiatives bear results, the

Company will continue holding long outstanding payables, which may result to discontentment of financiers and suppliers, who may hold back any further financing and supply of goods and services to the Company.

Management Response

The trade payables balance of Kshs 1,379,725,000 include, among others unpaid 7.85% Preference dividends to GOK amounting to Kshs 875,041,074.

As highlighted under the going concern assessment, one of the National Treasury Taskforce recommendations was the Deferment of payment of outstanding dividend owed by KPLC. A moratorium on dividends payable to the Government was granted as per Appendix 7.

The balance of Ksh 504 million comprised of supplier obligations that were either not fully documented for processing and the company was engaging the respective suppliers to provide additional documentation, or obligations that had ongoing court cases and pending audit queries.

Committee Observation

The Committee noted the management inability to pay the long outstanding debts was due to the material uncertainty relating to going concern and a court case that had hindered payment of contractor obligations amounting to ksh. 311Million. The amount owed to the government of kshs 875 Million has not yet been paid.

Committee Recommendation

The matter remains unresolved and the OAG to keep the matter in view.

2. Weaknesses in Information Technology (IT) Systems

Committee Observation

The audit query has been handled in FY 18/19

FY 2020/2021

3. Material Uncertainty Relating to Going Concern

Committee Observation

The audit query has been handled in FY 18/19

4. Capacity Charge on Power Purchase Agreements
Committee Observation

The Committee noted that the issue had been canvassed widely by various Committees of the Parliament of Kenya, which had recommended that forensic audits be conducted by the Office of the Auditor-General (OAG). The resulting reports had already been tabled before Parliament.

Committee Recommendation

The Committee resolved to examine these reports to guide it in making appropriate recommendations on the query.

5. Impairment Loss on Stalled Projects

The statement of profit or loss and other comprehensive income and Note 9(a) to the financial statements reflects network management expense of Kshs.10,237,382,000 which includes an impairment loss on capital Work-In-Progress (WIP) totalling Kshs.205,561,000. The impairment was in respect of projects that had part of the contract sum paid for but had no activity for the last three years. Management indicated that part of the impaired amount totalling Kshs.159,195,364 related to fraudulent payments made to contractors and which was subject of a court case against former employees of the Company.

Management Response

A total of 9,127 projects spread across all the Company Regions did not have any movements in expenditure for 3 years to 30th June, 2021.

The above was attributed to the following reasons:

i. The 2017 cancelled Labor and Transport contract for which some contractors had gone to court on the basis of alleged irregularities in the procurement process and the cases were still pending.
ii. Wayleaves and land ownership challenges and land succession issues
iii. There were cases of projects where customers were yet to complete the required set up for KPLC to complete the projects.

Committee Observations

I. The Committee noted that a total of 9,127 projects had stalled during the period under review. This was attributed to an ongoing court case among other factors. However, the management indicated that several projects had since been completed, though they were unable to provide an updated status report for all the projects.
II. The Committee advised the management of KPLC to propose a policy document to address frequent blocking of projects which has hindered project implementation.

Committee Recommendations

I. The Committee directed the management of KPLC to submit status report of the 9,127 projects to the Clerk's Office and the OAG for verification by 18/07/2025.
II. The matter remains unresolved.

6. Comparative Cost of Power Purchase-Kenya Electricity Generating Company PLC and The Independent Power Producers

Committee Observation

The Committee noted that the issue had been canvassed widely by various Committees of the Parliament of Kenya, which had recommended that forensic audits be conducted by the Office of the Auditor-General (OAG). The resulting reports had already been tabled before Parliament.

Committee Recommendation

The Committee resolved to examine these reports to guide it in making appropriate recommendations on the query.

7. Non-Compliance with the Unclaimed Financial Assets Act, 2011

Committee Observation

The audit query has been handled in FY 18/19

8. Non-Compliance with the Capital Markets Authority Listing Rules

Committee Observation

The audit query has been handled in FY 18/19

9. Power Losses in the System

Committee Observation

The Committee noted that the issue had been canvassed widely by various Committees of the Parliament of Kenya, which had recommended that forensic audits be conducted by the Office of the Auditor-General (OAG). The resulting reports had already been tabled before Parliament.

Committee Recommendation

The Committee resolved to examine these reports to guide it in making appropriate recommendations on the query.

10. Failure to Observe Guidelines on Board of Directors Meetings

The Office of the President in a circular referenced OP/CAB.9/1A dated 11 March, 2020 provided that Board meetings should be restricted to a minimum of four (4) as provided for in the State Corporations Act and capped at a maximum of six (6) for each financial year or as maybe specified in the enabling legal instruments. The same principle should apply to respective Committees of the Board.

Although the justification for approval request to the Cabinet Secretary was submitted and granted, the source of funds and the cost implication due to the high number of extra meetings was not factored as there were no approved budget reallocation.

Management Response

During the period under review, KPLC was implementing a turnaround strategy and therefore in the interim period, it necessitated holding of frequent meetings between Management and the Board. In addition, the majority of the Board members (5) were appointed in July 2020 and required the increased meetings to fully understand the operations of the Company and by extension the reasons for the declining performance.

On 7th October 2020, KPLC received approval to hold extra special meetings until the presentation of the transformation strategy for the organization but not later than three months from the date of appointment of new Board Directors.

On 13th January 2021, KPLC wrote to the Ministry forwarding a summary of Board Meetings held from July to December 2020 and sought approval of a work plan for the second half of the

financial year (January to June 2021). Approval was subsequently granted on 19th February 2021 by the Head of Public Service and the same was subsequently communicated to KPLC vide a letter dated 24th March 2021. The Head of Public Service noted that 'The Board of KPLC is expected in its initial post appointment period, to hold requisite meetings towards developing, monitoring, securing implementation of the necessary turnaround strategy for the Company.'

It's important to note that all the additional meetings were approved as required by law.

Committee Observation

The Committee was informed during the period KPLC was undergoing turnaround strategies thus necessitating extra sittings by the Board, however, despite getting the approval for extra sittings the management of KPLC did not provide sufficient documentations to support their explanation and the source of funds to support the extra meetings.

Committee Recommendations

The management of KPLC were directed to submit the following documents to Clerks Office and the OAG by 18/07/2025;

i. the approval for the annual budget for the board,
ii. the approval for the budget for the extra meetings,
iii. the cost of the extra board meetings,
iv. provide the turnaround strategy or a directive that necessitated the extra meetings,
v. provide the gazette notice if any that appointed the taskforce, and
vi. Provide the taskforce report or taskforce recommendation register.

11. Weaknesses in Information Technology (IT) Systems

Committee Observation

The audit query has been handled in FY 18/19

12. Long Outstanding Trade and Other Receivables

Committee Observation

The audit query has been handled in FY 19/20

13. Implementation of Last Mile Connectivity Project

The Company implements the Last Mile Connectivity Project under a financing agreement signed between the Government of Kenya and the African Development Bank (AfDB).

A number of weaknesses and governance lapses in implementation of the project were observed as follows:

(i) Lack of public participation by the communities targeted in the project which led to lack of project ownership by members of the public thus hampering implementation
(ii) There was no evidence of engagement with key regulatory, oversight and stakeholder agencies such as the Energy and Petroleum Regulatory Authority (EPRA) and Rural Electrification and Renewable Energy Corporation (REREC) an omission which can lead to duplication of projects.
(iii) Documents that are key to procurement of services and works including feasibility studies and surveys, progress reports for projects, technical specifications, bills of quantities and architectural drawings , and environmental and social impacts

assessment reports were not provided for audit review.

(iv) The Company procured consultancy services for supervision and management of civil works and installation of meters at a cost of Kshs.274,380,500. However, site visits by the audit team revealed no evidence of consultants' personnel's presence at those sites, raising doubt on whether they had been deployed as per the contract.

(v) The project had received a total of Kshs.28,272,249,380 representing 63% of the approved loan amount of Kshs.44,797,955,760. However, documents in respect of disbursement and payments to contractors were not provided for audit verification. In addition, although the project had a projection of connecting 525,796 customers by the end of the project, only 213,432 had been connected representing 41% of the projection yet disbursement was at 63%.

(vi) Single prepaid meters procured from a Chinese Company at a cost of US$.10,073,000 (Kshs.1,086,373 ,050) and installed at customers premises were not vending even though they had been activated by the contractor thereby implying that customers were purchasing tokens but the Consumer Interface Units (CIU) were not picking the tokens and thus had no access to power. Other meters had taken as far as three years without vending.

Management Response

(i) At the inception of the Project, KPLC together with Ministry of Energy did stakeholders consultation and on several occasions to inform them about the project. Additionally, during selection of beneficiaries, Identification of transformer/locations was done by the KPLC regional offices in consultation community leaders (including members of parliament) .The transformers targeted were those with an existing network but were under-utilized at the time and thus needed maximization for optimal utilization.

Further to this, KPLC has been undertaking continuous customer education in the target project areas to educate customers on key.aspects of project such as terms of connection, purchase of tokens. evidenced by Environmental & Social Management Framework (ESMF)

(ii) KPLC undertook a stakeholder engagement forum where participants were drawn from various government agencies such as REA, KENGEN, EPRA. Ministry of Energy and other interest groups. The meeting was held on 6th January 2015 at Safari Park hotel where various aspects of the project were discussed and clarified. Minutes of the meeting complete with signed attendance list of participants is hereby attached as ***Appendix 6***.

KPLC also undertook the preparation of the Project Resettlement Policy Framework covering the Electrification component C1 and the Off-Grid Component C2 being implemented by REA.

Last mile connectivity Project as one of the Government Project is centrally coordinated at the Ministry of Energy together with other projects thus mitigating the risk of duplication of projects.

(iii) The feasibility was done by the financiers as part of the project preparation and is captured in various project appraisal documents.

(iv) The Consultancy contract was signed on 9th November 2017, the consultant's scope entailed procurement assistance, design reviews/approvals and construction works supervisions.

The consultant supervises multiple sites per lot which cut across several counties. The audit team was assigned to the KPLC Engineers for the period of audit whereas the consultant was engaged in supervising ongoing sites at the same time.

(v) The payment vouchers prior to June 2020 were raised by Ministry of Energy and are not available within KPLC. However, payments supporting documents are available for review. Subsequently, the payment Vouchers done after June 2020 complete with the supporting documents are available for review.

a) For the Kshs. 28,272,249,380 so far disbursed constituting payment for AfDB Phase I, AfDB Phase II and World Bank Last Mile Phase III, the payment vouchers and supporting documents are available for review as described in (a) above.

b) Concerning Kshs 6,219,894,863.60 being the difference between the amounts disbursed and the physical progress of work, we wish to respond as follows.

- The scope of audit covered AfDB II and IDA phase whose total budget is Kshs. 31,189,955,760. The total disbursement made for the two project phases is Kes.15,728, 249,380.00 translating to 50% Disbursement ratio.
- The corresponding completion rate in respect to the scope of audit is 41%. Therefore, the difference is 9% which is equivalent to Kes. 2,544,502,444.20. This difference is majorly attributable unrecovered advance payment which was Kshs. 2,515,151,067.85 for both Phases as at a time of audit. Schedule of unrecovered advance submitted.

(vi) The contract provides that the supplier remedies for any product defects and faults within the warranty period. Contract between KPLC and Shenzhen Clou on supply of pre-paid meters submitted.

According to the contract KP1/6E-2/PT/5/16/A51 Lot 1 (Supply of pre-paid meters), warranty of 18 months is a provided under GCC 28.3- The warranty period is applicable from the last date of receipt and acceptance of meters at the receiving store. The last batch was received and accepted in KPLC store on 20th August 2020. (*completion certificate submitted*) therefore the warranty was still valid.
During the period under review, the suppliers collected 8,492 Pieces of Faulty meters for repairs/replacement. *(Letter on Repair of faulty meters submitted).* Additionally, the supplier identified the cause of failure as software related and rolled out plan to upgrade the software in the already installed meters to forestall future meter failures.

Committee Observation

I. The Committee noted the faulty meters were replaced by the supplier given that the goods were still under the warranty period. The software managing the meters was updated and management had carried a mapping of meters throughout the Country.

II. The current status of the project was that a total of 541,000 customers had been connected with electivity, and the project was implemented by AfDB and overseen by the consultant.

III. The Committee noted the explanation for the presence of consultants to the oversee the project was insufficient.

Committee Recommendation

The Committee directed the management of KPLC to submit the list of the consultant(s) that were paid kshs. 274,380,500 to the Clerk's Office by 18/07/2025.

FY 2021/2022

14. Property, Plant and Equipment - Street Lighting Projects Cost

As disclosed in Note 16 to the financial statements, the balance includes Kshs.23,015,299,000 in respect of work in progress. Review of work in progress schedules and projects listing provided for audit revealed street lighting projects with a balance of Kshs.1,239,001,000. Management has indicated that the street lighting projects are funded by the National Government and implemented by the Company after which the projects are handed over to respective County Governments.

Records at the Company indicates that upon completion, the projects are cleared from the books against the received funds. Although the build-up of costs are included under property, plant and equipment as work in progress, the resultant assets are not reported as part of the Company's assets.

Management Response

As indicated in the audit report, Street lighting capital costs incurred by KPLC were previously accounted against the funds received from the government and thereby having a netting off effect. Following the recommendation all completed GOK-funded street lighting projects were capitalized as assets under the Rural Electrification Scheme (RES).

Committee Observation

The Committee noted the management have capitalized the street lights as assets under the Rural electrification Scheme.

Committee Recommendation

The matter stands resolved.

15. Variances on Balance with Related Entities

The statement of financial position reflects balances of Kshs.40,295, 197,000 and Kshs.87,508,583,000 in respect of trade and other receivables and trade and other payables respectively as disclosed in Note 21(b) and Note 28(b) to the financial statements. Review of receivables and payables balances for related entities revealed variances between amounts reported by the Company and those confirmed by the entities.

The Management attributed the variances to disputes relating to interest charged on late payment, withholding taxes, works carried out on behalf of the entities among others. Collection of the disputed amounts was therefore in doubt.

Management Response

KPLC undertook joint reconciliations with each of the sector agencies, thus KENGEN, KETRACO & REREC. The variances were found to relate to withholding VAT and cut-off dates, these have since been addressed and the discrepancies in the balances resolved.

Committee Observation
The management had undertaken a joint reconciliation with REREC and KETRACO and resolved the variances.

Committee Recommendation
The matter stands resolved.

16. Material Uncertainty Relating to Going Concern

Committee observation

The audit query has been handled in FY 18/19

17. Unmatched Pass through Costs to Revenue

Committee Observation

The Committee noted that the issue had been canvassed widely by various Committees of the Parliament of Kenya, which had recommended that forensic audits be conducted by the Office of the Auditor-General (OAG). The resulting reports had already been tabled before Parliament.

Committee Recommendation

The Committee resolved to examine these reports to guide it in making appropriate recommendations on the query.

18. Forensic Audits

On 29 March, 2021, a Presidential Taskforce on the review of Power Purchase Agreements (PPAs) was appointed through a special Gazette Notice No.3076 to undertake a comprehensive review and analysis of all Power Purchase Agreements (PPAs) entered into between various Independent Power Producers (IPPs) and The Kenya Power and Lighting Company PLC. The Terms of Reference (TOR) of the Taskforce was to develop a suitable strategy for engagement with the IPPs and lenders, in order to achieve relief for electricity consumers and ensure the long-term viability and sustainability of the energy sector.

As at the date of this report, the forensic audits had not been finalized.

Management Response

The contracted consultants subsequently submitted the forensic reports to the Office of the Auditor-General

Committee Observation

The Committee noted four forensic audits had been tabled in the Parliament of Kenya.

Committee Recommendation

The Committee recommends matter as resolved

19. GOK Support for 15% Tariff Reduction

During the year under review, a Presidential directive was issued on implementation of 15% tariff reduction for all customer categories which was effected through Gazette Notice No. 64 dated 7 January, 2022. Arising from the Presidential directive, the National Government disbursed a total of Kshs.7,050,000,000 to the Company to support the tariff reduction. According to the framework agreed between the Ministry of Energy and Semi-Autonomous Agencies (SAGAs) in the electricity sub-sector, the SAGAs in the electricity supply chain comprising The Kenya Power and Lighting Company PLC (KPLC), the Kenya Electricity Generation Company PLC (KenGen), the Kenya Electricity Transmission Company Limited (KETRACO), and the Geothermal Development Company Limited (GDC), were to contribute through cost reduction initiatives to supplement Government Support.

Committee Observation

The Committee stepped down the query and directed the management to submit a response to the Clerks Office and the OAG for verification by 18/07/2025.

20. Comparative Cost of Power Purchase between KENGEN and Independent Power Producers

Committee Observation

The Committee noted that the issue had been canvassed widely by various Committees of the Parliament of Kenya, which had recommended that forensic audits be conducted by the Office of the Auditor-General (OAG). The resulting reports had already been tabled before Parliament.

Committee Recommendation

The Committee resolved to examine these reports to guide it in making appropriate recommendations on the query.

21. Unmatched Cost of Thermal power Against Units Purchased

The statement of profit or loss and other comprehensive income reflects cost of sales amounting to Kshs.115,208,040,000 as disclosed in Note 8 to the financial statements. The costs include fuel charge of Kshs.26,487,695,000 representing an increase of Kshs.15,303,503 or 137% from the previous year. However, as reflected in Note 8(c) to the financial statements, thermal energy purchased increased to a total of 1,577Gwh units from 940GWh units in 2020/2021, an increase of 637GWh units or 68%.

Management Response

In the year under review, the weighted unit Fuel Cost increased from KShs. 48.39 to Kshs. 70.47 per kg or 45.64 % from the previous year 2020/2021, this was due to the significant increase in international fuel prices as well as the deterioration of the local currency.

Committee Observation

The Committee was informed the price of the fuel was determined by the regulator EPRA which reviews the prices periodically. Further, the Committee noted the matter was canvassed extensively in the forensic audits.

Committee Recommendation

The Committee to study the forensic audit and make appropriate recommendations.

22. Budgetary Control and Performance

Review of recurrent budget revealed that the Company spent Kshs.167,634,935,592 against the approved budget of Kshs.146,242,067,492 resulting to an over expenditure of Kshs.9,983,496,388 being 15% contrary to Regulation 40 (2) of the Public Finance Management (National Government) Regulations, 2015, which provides that prior to incurring any expenditure against revised budgets, Accounting Officers shall seek the approval of The National Treasury, and if approval is granted by the Cabinet Secretary, it shall be communicated to the Accounting Officers through a notification.

Management Response

The actual recurrent expenditure during the financial year was Kshs.167, 897,785,914 thereby exceeding the budget by Kshs. Kshs.16, 128,361,422 being 10.6%. This was occasioned by:

i. Increased power purchase costs by Kshs 14.1B owing to growth in demand, increase in international fuel prices and depreciation of the local currency.
ii. Reduction of the salaries and wages budget on approval by the National Treasury by Kshs. 1.05B.
iii. Depreciation of the Kshs against the dollar leading to an over expenditure on loss on forex charges totalling Kshs. 5.7B.

KPLC appealed for a reinstatement of the reduced amount of the recurrent budget and this delayed the adoption of the approved budget of Kshs. 151,769,424,492 having posted the intended adjustments into GIMIS.

Committee Observation

I. The Committee noted the explanation from the management was sufficient given the unique service they provided in the country, the over expenditure was attributed to the increased demand for electricity necessitating use of more fuel to run thermal plants.
II. The management stated they requested for approval through the GIMIS system to the National Treasury which was not responded, therefore, leading to violation of the PFM Act.
III. The Committee advised the management to explore proposing a legal amendment given the critical service they provide to shield them from such legal violations.

Committee Recommendation

The Committee directed the OAG to keep the matter in view in future audit cycle.

23. Human Resources Matters

23.1. Irregular Secondment of Staff

During the year under review, thirty-six (36) employees were seconded from different Ministries to the Company. However, review of relevant documents revealed that the secondment was not approved by the Public Service Commission (PSC) as required by Section 42 of the Public Service Act, 2017. Further, secondment of thirty-three (33) employees to serve in supply chain officer positions for a period of three (3) months effective February, 2022 was done by the Cabinet Secretary to The National Treasury instead of PSC.

Management Response

This included outsourcing of procurement function to government organizations in the interim. The staff secondment was a government initiative over which KPLC did not have control.

Committee Observation

I. The Committee was informed the seconded staff were from the National Treasury and they had come to replace the suspended staff of the procurement department. The staff worked for nine months and returned to the National Treasury afterwards. Thereafter, the suspended staff were reinstated.
II. The Committee noted this was during the period KPLC was undergoing a turnaround strategy spearheaded by the government.

Committee Recommendation

The Committee to make recommendation in its report.

23.2. Un-concluded Recruitment Process of a Managing Director

During the year under review, the Board of Directors through Management engaged a consultancy firm to undertake the recruitment of the Company Managing Director through a contract signed on 27 January, 2022. The process entailed analysis, preparation of applicants' profiles, longlisting, shortlisting, interview, and recommendation of suitably qualified applicant for the position the Managing Director.

Management Response

A substantive Managing Director & Chief Executive Officer (MD & CEO) was appointed in May 2023

Committee Observation

There was currently a substantive Managing Director in KPLC.

Committee Recommendation

The matter stands resolved.

23.3. Non-Compliance with the One-Third of Basic Salary Rule

During the year under review, at least 2,635 employees were paid a net salary which was less than a third (1/3) of their basic pay in the month of June, 2022. This was in contravention of Section 19(3) of the Employment Act, 2007 which provides that the total amount of deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages.

Management Response

The company has been progressively enforcing the requirement through automation of salary advance loans that automatically checks the 1/3rd requirement. The numbers are expected to reduce since no loan/advance will be granted to a staff who does not meet the 1/3rd requirement.

Committee Observation

The management had taken steps by automating their system to ensure compliance with the One-Third of Basic Salary Rule.

Committee Recommendation

The OAG to keep the matter in view in future audit cycles.

24. Procurement of Goods and Services

24.1. Irregular Hire of Generator for Mandera and Lodwar Power stations

The Management contracted a rental company to supply on hire, 2 megawatts (MW) and 2.5MW capacity generators for power generation in Mandera and Lodwar power stations through six contracts spread between August, 2020 to September, 2022 at a cost of Kshs.185,311,161 through direct procurement.

Review of the procurement process and contract documents revealed the following anomalies:

i. Management cited Section 103(2)(d) of the Public Procurement and Asset Disposal Act, 2015 as the justification for direct procurement.
ii. The use of direct procurement method is therefore in violation of the Act.
iii. A cost benefit analysis between hiring and buying of generators conducted by Management in 2019/2020 financial year concluded that purchasing own generators was beneficial.
iv. The supplier was engaged to provide generator hire services in Lodwar and Mandera stations at a cost of Kshs.14,227,895 and Kshs.11,036,760 for the service period between 25 November, 2020 to 25 February, 2021 and 19 December, 2020 to 18 February, 2021 respectively without signed contracts contrary to Section 135 of the Public Procurement and Asset Disposal Act, 2015. Further, the supplier continued to provide services in respect of six contracts before the procurement process was completed and contracts entered into with successful tenderer which is irregular.
v. The Evaluation Committee in its report dated 7 January, 2021 indicated that the supplier's bids for the service period between 25 November, 2020 to 25 February, 2021 and

19 December, 2020 to 18 February, 2021 at a cost of Kshs.14,227,895 and Kshs.11,036,760 respectively, were not responsive in the preliminary evaluation due to failure to submit audited financial statements for the last 18 months. Therefore, the award of the two contracts were irregular and contrary to Regulation 75(1) of the Public Procurement and Asset Disposal Regulation, 2020.

vi. The evaluation report indicated that the supplier quoted a price of Kshs.10,846,470 for hire of generators to Mandera Substation for service period between 19 December, 2020 to 18 February, 2021. However, the Evaluation Committee made correction to the quoted price to Kshs.11,036,759 on grounds that the bidder's price schedule computed VAT at 14% while the prevailing VAT rate was 16%. This correction was contrary to Section 82 of the Public Procurement and Asset Disposal Act, 2015.

Management Response

Power supply at Mandera and Lodwar Power stations is provided by contracted generators using diesel. These areas are outside the National grid. The generation is contracted to a third party provider with funding from the Ministry of Energy (MoE). They are high security risk areas that can't do without power at any one given time.

Upon receipt of funding from MoE, KPLC floated Open tenders under tender no: KP1/9A.1A/OT/018/18-19 and KP1/9A.1A/OT/019/18-19 for hiring of 2000 Kw generator capacity for Lodwar and Mandera power station respectively.

M/s Aggreko Kenya Energy Rentals Ltd was the lowest evaluated and was awarded contract for one-year period from 25th May 2019 to 24th April 2020 for Lodwar and 20th June 2019 to 19th June 2020 for Mandera.

In view of the above, KPLC wish to state as follows:-

i. The service provider had already installed the plant on site and there was no other way of meeting power needs of the area without these critical generators-National Security.
ii. The ministry took rather too long to provide funding for the procurement of the generators
iii. Direct procurement was the only applicable method taking into consideration of the non-responsive open tenders, the reasonableness of the prices and the unsuitability of alternatives to the service in question.
iv. After the cost benefit analysis, availability of funds from MoE and inclusion of the said procurement in the procurement plan for the year 2021/2022, KPLC proceeded to tender and award procurement of new generators expected to be delivered and installed under the financial year 2022/2023.
v. It is imperative to note that KPLC is just an implementing agency and is dependent on MoE for funding and guidance for the operations of the off-grid stations.

Committee Observation

The Committee noted the management response provided was not sufficient as most issues raised by the OAG were not adequately responded to.

Committee Recommendation

I. The Committee directed KPLC to do a proper response addressing all the six issues raised by the OAG and provide evidences and submit to Clerks Office and the OAG by 18/07/2025 for verification.

II. The matter of off grid stations to be canvassed during the round table meeting of the stakeholders in the Energy sector scheduled for 5th August, 2025 and focus to be on the management of the infrastructure to be either managed by REREC or KPLC.

MIN.NO.NA/PIC-CA&E/2025/112: ADJOURNMENT

The meeting was adjourned at 2.02 p.m. The next meeting will be held on notice.

Signature .....

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 29/07/2025

MINUTES OF THE 25TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY, 15TH JULY 2025 IN 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Dr. John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
4. Hon. Festus Mwangi Kiunjuri, EGH, M.P
5. Hon. Esther Muthoni Passaris, M.P.
6. Hon. Paul Kahindi Katana, M.P
7. Hon. Betty Njeri Maina, M.P
8. Hon. Charo Kazungu Tungule, M.P
9. Hon. David Kiplagat M.P.

APOLOGIES

1. Hon. Sarah Paulata Korere, M.P
2. Hon. Dr. Babu Owino Paul Ongili, M.P
3. Hon. Dr. Beatrice Adagala, M.P
4. Hon. Duncan Mathenge Maina, M.P
5. Hon. Ronald Kamwiko Karauri, M.P
6. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Ms. Wanjiru Mwaura	-	Principal Clerk Assistant I
2.	Mr. Ahmad Guliye	-	Clerk Assistant I
3.	Mr. Andrew Kipchumba	-	Clerk Assistant III
4.	Mr. Brian Njeru	-	Fiscal Analyst II
5.	Mr. Timoty Chiko	-	Research Officer III
6.	Mr. Amos Tindi	-	Hansard Reporter II
7.	Mr. Brian Ojaamong	-	Media Relations Officer
8.	Ms. Mwanaisha Juma	-	Serjeant-At-Arms
9.	Ms. Mercyline Kerubo	-	Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1.	Mr Daniel Kuria	–	OAG, Principal Auditor
2.	Mr Fredrick Omondi	–	DDA
3.	Mr Benson Wanjau	-	Officer
4.	Ms Hellen wambui	-	Officer

THE NATIONAL TREASURY

1. Ms. Catherine Nzioki - Officer
2. Ms. Wendy Nguyu - Officer

INSPECTORATE OF STATE CORPORATION

Ms. Noreen Kanyua - Officer

RURAL ELECTRIFICATION & RENEWABLE ENERGY CORPORATION (REREC)

1. Dr Rose Mkalama	–	CEO
2. CPA Davis Cheruyoit	–	General Manager, FINANCE
3. Mr. Wilfred Oduor	–	Manager, Supply Chain
4. Mr. Wycliffe Abiero	–	Manager, Geospatial
5. Mr Terry Chepkania	–	Manager, Design
6. Mr James Muriuki	–	GM, PD + RL
7. Mr. Kang'ethe Alex	–	Manager ICT
8. Ms Sharon Tugge	–	Legal
9. Mr Jonathan Mbutu	–	MAB

MIN. NO. NA/PIC-CA&E/2025/115: PRELIMINARIES

The meeting was called to order at 10:05 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2025/116: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholders to the meeting. He stated the Committee would examine the audited accounts of REREC for the FY 20/21 to FY 22/23.

MIN.NO.NA/PIC-CA&E/2025/117: CONFIRMATION OF MINUTES

This agenda was differed to the next meeting.

MIN.NO.NA/PIC-CA&E/2025/0118: MEETING WITH THE CHIEF EXECUTIVE OFFICER, RURAL ELECTRIFICATION & RENEWABLE ENERGY CORPORATION TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2020/2021 to FY 2022/2023.

The management of REREC, led by the Chief Executive Officer, Dr. Rose Mkalama appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 20/21 to FY 2022/23.

FY 2020/2021

1.0. Variance Between Financial Statements and Ledgers

Comparison of balances reflected in the financial statements with those in ledgers reflect unexplained and unreconciled variances of Kshs.8,595,681,628 as related to sixteen components.

Management Response

1. Advance to vendors

This relates to advance payments made to suppliers of goods, works, and services. A variance of Kshs. 713,574,626 was noted between the initially reported figure in the financial statements and the ledger balances. The discrepancy has since been reconciled, and the financial statements were amended accordingly.

2. Deposits – Rent

The corporation rents several facilities to support achievement of its mandate. The ledger for rent deposit accounts reported an amount of Kshs 14,626,784.80 and not Kshs 14,437,436 reported in the audit report. There is therefore no reportable or reconcilable variance.

3. Other receivable - Sale of power

It is true that there was a difference between the ledger balance and the financial statement figure. The ledger balance on sale of power was Kshs. 522,963,842.65.This balance was subsequently updated with an amount of Kshs. 63,900,157.35, being an unposted/omitted sales invoice (inclusive of VAT) for the month of June 2021. This adjustments were made and subsequently incorporated in the opening balances of FY 2021/2022.

4. Insulators

It is true that there was a variance between the financial statements and the ledgers of Kshs. 1,786,026.00. This was as a result of an error of omission. The same has been corrected through Journal vouchers.

5. Surge Diverters

It is true that there was a variance between the financial statements and the ledgers of Kshs. 874,653.73. This arose from non-inclusion of one ledger account called Inventory- Surge Diverters – GL 20005001. The same has been included in the opening balance of the financial statements of FY 2021/22. From the analysis above, there was no variance between the ledger balances and the financial statements figure

6. Work in progress

Property, Plant and Equipment (PPE) represents a summary of the Corporation's total assets, both movable and immovable. The Work in Progress (WIP) component relates to ongoing projects currently being implemented by the Corporation.

As at 30th June 2021, the ledger balance for Property, Plant and Equipment (PPE) totaled Kshs. 16,252,778,000, and not Kshs. 8,858,353,460 as reported in the audit report. The figure of Kshs. 16,252,778,000 is supported by the balances in the general ledger accounts. From the analysis above, there was no variance between the ledger balances and the financial statements figure.

7. Tax Payable – Withheld tax 5% Prof. Fees

The variances between the ledger balances and the financial statements was as a result of an omitted GL 12201000 which has now been reported in the financial statements of the FY 2021/22 opening balances.

8. Tax Payable - Withheld VAT

There was no variance between the reported ledgers and the financial statements. The analysis of the General ledger balances for the taxes are as below. The figure has now been reported in the financial statements of the FY 2021/22 opening balances.

9. Tax Payable- Withheld tax 2% Agency

The variances between the ledgers balances and the financial statements arose from non-inclusion of one ledger account GL 12200001. The balance was reported in the financial statements of FY 2021/22 opening balances. From the analysis, there was no variance between the ledger balances and the financial statements figure.

10. Kenya Commercial Bank Escrow US Dollar Account Balance

The Corporation maintains an escrow account denominated in US Dollars (USD) for the repayment of the Garissa Power Plant loan. However, it was translated using a system generated exchange rate of Kshs 101.85 per USD instead of the applicable closing rate as at 30th June 2021, which was Kshs 107.85 per USD. This resulted in a foreign exchange gain amounting to Kshs 73,862,276.74, and not Kshs 46,172,436 as reported in the audit report. The revalued figure was reported in the financial statements of FY 2021/22 opening balances

11. Co-operative Bank Fixed Deposit Account

The corporation negotiates for interest income on its money placed in all its bank accounts including cooperative bank. The variance of Kshs 231,000 relates to accrued income initially posted in the corporation's cash book account instead of receivables account. The same has been corrected and correctly reported in the financial statements for the FY 2021/22 opening balances as interest receivable.

12. Inventories

A variance was noted between the inventory ledger balances and reconciliation done.

13. Staff Advances

The ledger balance for staff advances as at 30th June 2021 was Kshs. 5,052,611.28, and not Kshs. 15,045,185 reported in the audit report. Included in the balance of Kshs. 5,052,611.28 is a credit of Kshs. 7,731,344.80 a death insurance claim received by the Corporation on behalf of a late member of staff that was posted as staff advances to enable settlement of the insurance claim.

14. Sale of Electricity

It is true that there was a variance between the ledger and the financial statements. The variance was due to exchange rate between the system generated rate of ksh. 102.35 and the reporting rate. This is because during invoicing, an exchange rate of ksh. 102.35 per USD is maintained in the system whereas the same has to be adjusted to the closing rate every end of the month.This balance was subsequently updated with an amount of Kshs. 26,941,577.74.

15. Comparative Sale of Electricity

The same was reported as outstanding since Kenya power had not remitted the same to the Corporation. The variance of Kshs. 26,010,000 is explained as follows:

Description	Amount Kshs.	Remark
Amount as per ledger balance	535,624,000	Balance before adjustment
Less: adjustment	(26,010,000)	Adjustment of an invoice that was wrongly posted in the financial year 2020/2021.
Financial statements	509,614,000	Reported in the financial statements of FY 2021/22 opening balances

16. Revenue 5%-Rural Electrification Project Levy

These are funds collected by the Kenya Power and Lighting Company (KPLC) under Section 78 of the Energy Act, 2019, which imposes a 5% levy on electricity consumption. The ledger reported a balance of Kshs. 6,296,342,200. However, this amount was adjusted by Kshs. 1,094,470,200 for uncollected levies.

Committee Observation

The Committee noted the management had submitted explanation regarding the variances between the ledgers and the financial statements, however evidence was not provided to support the explanation.

Committee Recommendation

The Committee directed the management of REREC to submit evidence supporting the variances to the OAG for verification by 17/07/2025.

2.0. Inaccuracies in the Financial Statements

The following variances in the financial statements were noted;

i. Note 32 to the financial statements reflects computers net book value of Kshs.59,307,000 while re-computation revealed Kshs.55,483,000 resulting in an unexplained and unreconciled variance of Kshs.3,824,000.

ii. Note 33 to the financial statements reflects intangible assets net book value of Kshs.61,212,00 while re-computation revealed Kshs.37,981,000 resulting in an unexplained and unreconciled variance of Kshs.23,231,000.

iii. The Corporation's Escrow US Dollar cashbook was adjusted by Kshs.46,172,436 to cater for exchange rate gain which was not reported as exchange gain in the statement of financial performance.

Management Response

i. The net book value for computers and related hardware reported under Note 32 is Kshs 59,306,507.92. According to the Corporation's accounting policy, these assets are depreciated at a rate of 33.3% per annum on a pro-rata basis.

From the analysis, there was no variance between the ledger balances and the financial statements figure.

The remaining balance was depreciated at a rate of 33.3% on a straight-line basis over the asset's useful life, in line with the Corporation's accounting policy.

ii. The Corporation maintains an escrow account in USD for the repayment of the Garissa Power Plant loan. As at the reporting date, the balance in the escrow account was USD 12,302,710.03. However, it was translated using an exchange rate of Kshs 101.85 per USD instead of the applicable closing rate as at 30th June 2021, which was Kshs 107.85 per USD. This resulted in a foreign exchange gain amounting to Kshs 73,862,276.74, and not Kshs 46,172,436 as reported in the audit report.

Committee Observation

The Committee noted the management had made the amendments to the financial statement including, updating of ledgers, reversal of miss posted items and adjustments in foreign exchange rate.

Committee Recommendation

The query stands resolved.

3.0. Misclassification in the Financial Statements

The following misclassifications in the financial statements were noted;

i. Note 32 to the financial statements reflects capital work in progress balance of Kshs.16,252,778,000 which includes misclassified amounts of Kshs.419,290,463 for staff costs, Kshs.48,406,107 for rent and Kshs.20,521,543 for security of yards.

ii. Intangible assets balance of Kshs.61,212,000 in Note 33 to the financial statements includes misclassified expenditure of Kshs.38,446,015 for annual maintenance cost software support and SAP cloud platform subscriptions.

iii. Note 29 to the financial statements reflect interest receivable of Kshs.335,406,000 classified under receivables from non-exchange transactions instead of receivables from exchange transactions. In addition, Kshs.303,599,495 had been paid and, therefore, should not have been classified as a receivable.

iv. Note 28(a) reflects other accrued revenues of Kshs.10,437,436,000 being 5% Rural Electrification Projects Levy due from Kenya Power Company Limited classified under receivables from exchange transactions instead of receivables from non-exchange transactions.

v. Note 8 to the financial statement reflects revenue 5% - Rural Electrification Projects Levy of Kshs.5,201,872,000 which includes misclassified amount of Kshs.393,105,574 for financial year 2019/2020.

Management Response

i. The expense relates to project-related costs that were initially budgeted under the capital budget for items such as staff costs, rent, and security. This was rectified through a journal adjustment, and the expenditure was recognized as recurrent expenditure and reported correctly

ii. The expenditure of Kshs.38,446,015 for Annual Maintenance Cost Software Support and SAP Cloud Platform Subscriptions which is recurrent expenditure in nature has been expensed as recommended and the necessary adjustments done. The intangible assets have been adjusted with Kshs 38,446,015 to reflect Kshs 30,241,812.34.

iii. The interest receivable amount was adjusted as recommended by passing a journal of an amount of Kshs. 303,599,495. The interest receivable amount as reflected in GL-23100009- Accounts receivable interest income is Kshs.32,038,248.84.

iv. This had been classified as revenue from non-exchange transaction and reported as receivables form exchange transaction in the Statement of Financial Position in the financial statements which was re-classified as recommended and correctly reported both revenue and receivables as non-exchange transaction in the subsequent financial statements (FY 2021/2022)

v. An adjustment was made to correct a double-posted invoice for June 2020 amounting to Kshs. 393,105,573.70. The revised amount for the 5% REP Levy was Kshs. 4,808,765,714.30.

Committee Observation

The management had corrected the misclassification in the financial statements via journal vouchers.

Committee Recommendation

The matter stands resolved.

4.0. Inaccuracies in Cash and Cash Equivalents

The statement of financial position reflects cash and cash equivalents of Kshs.5,773,477,000 as disclosed in Note 27(a) to the financial statements. However, review of the Standard Chartered Bank cashbook revealed transactions amounting to Kshs.175,442,006 which were reversed to clear outstanding unpresented cheques but details of the corresponding accounts affected by the reversal and the journal vouchers were not provided for audit. The Corporation continued to maintain four (4) dormant bank accounts without adequate explanations and for which the respective certificates of bank balances were not provided for audit. Further a call account with Kenya Commercial Bank with an amount of USD926,378 equivalent to Kshs.99,909,819 and accrued interest of USD 1,949 equivalent of Kshs.210,226 which were not disclosed in the financial statements.

Management Response

i) Un-presented Cheques

These payments were appropriately reversed to ensure that the financial statements reflect the accurate cash balance as at year-end.

ii) Dormant Bank Accounts

The four bank accounts were opened for various purposes i.e. to receive project money.

Call Account

The call account held with Kenya Commercial Bank (KCB), the necessary adjustments were made, totaling Kshs. 100,120,045.38, comprising Kshs. 99,909,818.77 principal amount and Kshs. 210,226.61 earned interest. The call account was properly disclosed in the subsequent financial statements for FY2021/2022.

Committee Observation

The management made adjustments in the financial statement to correct the inaccuracies in cash and cash equivalents including; capturing the un-presented cheques and inclusion of call account.

Committee Recommendation

The matter stands resolved.

5.0. Unsupported Inventories

The inventories valued at Kshs.4,970,939,000 were not supported with stock valuation reports, ledgers balances, and stock movement schedules. Further, stock items valued at Kshs.11,072,015 were issued to Kenya Power Company Limited without updating the SAP System. Physical verification revealed that one hundred and forty-five (145) faulty transformers replaced from

already commissioned projects had not been accounted for in the SAP inventory system. In addition, the Corporation did not have a valuation policy to guide on accounting for the faulty transformers.

Management Response

The inventory valued at Kshs. 5,014,548,000 comprises of the following

Description	Kshs.
Physical Inventory	3,306,616,376.99
Add: Associated Inventory Costs	1,664,322,498.83
Sub-Total	4,970,938,875.83
Add: Stationery Inventory	41,775,771.41
ICT Inventory	1,833,480.45
Inventory Ledger Balance	5,014,548,127.69

The associated inventory costs comprise of costs related to exchange rate transactions related to imported items, price variances of materials drawn from system calculated moving average costs, and costs associated with letters of credit among others. These costs have been accumulated overtime.

With respect to the unposted materials issued to KPLC, It is true that at the time of the Audit, materials valued at Kshs 11,072,015 had been issued to KPLC and were awaiting posting into the SAP system and the posting were subsequently done.

It is true that as at the time of the audit, 145No transformers returned from the field had not been posted into SAP system. This was however, as a result of delays in submission of the documentation, required prior to the posting of transformers back to the SAP system. The documents were subsequently received and the postings done.

Whereas the Corporation did not have a written valuation policy on the accounting treatment for returned transformers, the Corporation's procedures were to post back into the SAP ERP system, any returned transformer at the full cost. To address this, the Corporation developed a policy that provides for a split valuation for transformers.

Committee Observation

The Committee noted the management had provided a breakdown of items in the inventory, the items are captured in the SAP system, however the system was in the process of being configured and optimized. The management had also developed a policy on valuation of transformers.

Committee Recommendation

The Committee directed the OAG to keep the matter in view in future audit cycles.

6.0. Inaccuracy of Receivables from Exchange Transactions

Included in this balance were advances to vendors totalling Kshs.1,869,574,000 in respect of contracts for works, goods, and services that had been completed, certificates of work done issued, and deliveries made. However, the advances had not been recovered and the respective ledgers were not updated with the completed works, goods, and services. Further, the amount includes deposits-rent of Kshs.14,627,000 out of which Kshs.14,437,436 was in respect to expired leases whose refunds had not been received or leases renewed.

Management Response

Following a reconciliation of the advance to vendor account, recoveries amounting to Kshs. 320,508,031 were made revising the figure to Kshs. 630,225,968 reported in the subsequent Financial Statements. The Corporation rents several facilities to support the achievement of its mandate. The deposit is still in force and recoverable since the leases were renewed with the same landlords.

Committee Observation

The Committee noted that the management had signed lease agreements which had expired; thus, the deposits remained valid and are to be recovered in future. The other receivables related to work-in-progress (WIP), which were secured by a security bond and performance bond, and the contract was still in force.

Committee Recommendation

The Committee directed the OAG to keep the matter in view in future audit cycles.

7.0. Unsupported Staff Advances

The amount includes staff advances of Kshs.5,052,000 in respect of per diems issued to staff. Although some of the staff surrendered the per diems, the general ledgers were not updated with the same. Further, it was noted that the Corporation maintained two general ledgers for staff advances in which accounting staff expenses was made.

Management Response

The Corporation maintains two separate ledgers for staff advances. The duplication of ledgers is to ensure that staff transactions are correctly classified and posted.

As per the audit finding, the amount of Kshs. 340,458,000 reported as receivables from non-exchange transactions under Note 29 of the financial statements includes staff advances totaling Kshs. 5,052,000. This amount represents outstanding advances as at the close of the financial year, which were subsequently accounted for after year-end.

Committee Observation

The Committee noted the unsupported staff advances were accounted for in the financial statements of the FY 2021/2022.

Committee Recommendation

The matter stands resolved.

8.0. Unsupported Trade and Other Payables from Exchange Transactions

The amount includes trade creditors not invoiced of Kshs.1,115,603,000 which were not supported by ledgers. Further, included in the balance is an amount of Kshs.847,284,000 reported as trade creditors – invoiced and ageing analysis presented for audit revealed that an amount of Kshs.573,854,028 relating to payables had been outstanding for over one hundred and twenty (120) days without explanations.

Management Response

Included in the balance is an amount of Kshs. 847,283,655.81 reported as trade creditors – invoiced.

The Corporation endeavors to settle its payables within 30 days after receipt of invoices as per the procedure manual. The accounts payables had a balance of Kshs. 573,854,027.95 under more than 120 days column. This is due to the fact that contracts for construction and installation of powerlines and mini-grids have 6 months and 12 months respectively defects liability period which falls beyond the 120 days observed.

Un-invoiced creditors amounting to Kshs.1,115,603,361.34 refer to amounts of Local purchase orders and service entry sheet created and issued to suppliers of goods and services. This process creates a payable situation in the system.

Committee Observation

The Committee noted that the management had a policy in place regarding retention amounts, which are pegged at 10%. Additionally, the Committee was informed that ledger payments were processed manually, and due to the controls in place, it was not possible for an invoice to be paid more than once. Management further indicated that the SAP system was in the process of being updated to enable all ledger entries to be posted electronically in the future.

Committee Recommendation

The Committee directed the OAG to keep the matter in view in future audit cycles.

9.0. Unsupported Property Plant and Equipment

Included in the balance are overhead distribution lines of Kshs.80,116,501,000 whose breakdown and details indicating the contract sum, starting and completion dates, payments made and current status were not provided for audit. In addition, the balance includes capital work in progress of

Kshs.16,252,778,000 which includes some projects that were initiated five years ago and which remained incomplete. Also, a fixed assets register was not provided to support asset balances.

Management Response

The overhead distribution lines figure of Kshs. 80,116,501,000 is a cumulative amount from the year 2010 to June 2021. It is true that at the time of the audit, there were projects under capital work in progress of Kshs. 16,252,778,000. Over time, these projects have been completed and commissioned and we have provided a sample of the FY 2020/2021 projects schedule. The corporation operates an ERP System which maintains a system-based assets register. This has since been provided in soft copy.

Committee Observation

The Committee noted the management had an asset register in place and the WIP projects captured.

Committee Recommendation

The Committee recommends that the matter is resolved

10.0. Irregular Expenditure on Land Survey Services

The amount includes additions to capital work in progress of Kshs.2,657,467,000 out which Kshs.571,062,727 was paid to three (3) firms for land survey services to unspecified projects. Further, the services were not supported by local services orders, contract agreements and reports by the three (3) firms indicating the topographical maps and way leaves.

Management Response

The three firms engaged for the survey services had been competitively prequalified under the corporation's framework agreement for survey and wayleaves services.

The amounts in question relates to irregular survey services which had been charged to already completed projects.

Consequently, on 8th August, 2022, the Corporation wrote to the Ministry of Energy requesting the Ministry to invite the Directorate of Criminal Investigations (DCI) or any other relevant body the Ministry may find suitable to undertake the investigations into the fraudulent payments. (Annex 8(d) - Letter by the REREC Board Chair dated 8th August, 2022 enclosing the Board resolutions).

On 8th August, 2022, the Ministry of Energy wrote to the Directorate of Criminal Investigations to undertake investigations.

Further, the Board made resolutions on administrative action to be taken against staff who had been implicated. Consequently, five staff were dismissed.

Mitigation measures by management

The management has since taken actions to mitigate future recurrence. They include;

i) Under the Survey Services;

The Corporation has since ceased the engagement of contracted surveyors and has instead established a fully-fledged Geospatial department.

ii) Under ICT;

The Management revoked the UNTECO rights from all users and vested them solely in the General Manager, Power Distribution and Regional coordination with written approval from CEO. All such actions are now logged and reviewed for compliance by the ICT manager.

Follow-up and Disclosure Measures:

The matter remains under active investigation by the Directorate of Criminal Investigations (DCI).In the interim, the Corporation has continued to cooperate fully with the investigative authorities.

Committee Observation

I. The Committee noted the management of REREC had dismissed five staff who were involved in the irregular expenditure of land surveying and investigations were still ongoing under the DCI.
II. The management informed that they instituted raft of measures to prevent future loss of funds in survey services this includes; established a fully-fledged Geospatial department and streamlining the approval process in the ICT department where only the General Manager has the UNTECO rights.

Committee Recommendation

I. The Committee directed the OAG to carry out an audit on the ICT (SAP-ERP) system to confirm whether controls are in place and the rights for all staff had been revoked and only the General Manager had the right to grant approvals.
II. The OAG to submit the report to Parliament by 01/08/2025.

11.0. Budgetary Control and Performance

The statement of comparison of budget and actual amounts expended amount of Kshs.744,199,000 against final expenditure budget of Kshs.881,574,000 resulting to an under-expenditure of Kshs.137,375,000 or 16% of the budget. In addition, sale of electricity from Garissa Solar Plant of Kshs.487,394,000 reflected in Note 11 to the financial statements was not supported by budgetary provision on sales of power.

Management Response

The main reason for the under-expenditure was the impact of the COVID-19 pandemic, which disrupted planned activities resulting to under-absorption of allocated funds.

It is important to note that the revenue of Kshs. 487,394,000, generated from the sale of power from the Garissa Solar Plant, is remitted directly to an escrow account established for the repayment of the project loan. As such, these funds are not available to finance the Corporation's operational activities.

Committee Observation

The Committee noted the under expenditure of the approved budget was due to Covid-19 which disrupted the Agencies activities. Further, the revenue generated from sale of power at Garissa Solar Plant was remitted to an escrow account for servicing the project loan.

Committee Recommendation

The Committee recommends the matter as resolved.

12.0. Unresolved Prior Year Matters

In the audit report of 2019/2020 financial year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to resolve them.

Committee Observation

The urged the management to FastTrack the implementation of the recommendations.

13.0. Delay in Implementation of Projects

Review of the project status report indicated that the Corporation was in the process of implementing four hundred and thirty-six (436) projects at a total cost of Kshs.2,937,355,534. Physical verification of some of the projects on 18 February 2022 revealed delay in implementation of the projects.

Management Response

While efforts had been made to implement the projects within the stipulated timelines, several challenges were encountered during implementation, as outlined below, along with the measures taken to mitigate them:

i) Prolonged wayleave acquisition processes, requiring extended negotiations and stakeholder engagement

ii) Challenging site terrain conditions, which affected accessibility and required engineering adjustment

iii) Late remittance of the Exchequer

We have since completed and commissioned the projects.

Committee Observation

The Committee noted management had experienced challenges in implementation of the projects, however they had since commissioned the projects and the remaining ones disclosed under the work in progress (WIP). The management stated they had in place a performance management system to guide in project implementation.

Committee Recommendation

The Committee recommends the OAG keep the matter in view in future audit cycles to check the status of the WIP projects.

14.0. Irregular Utilization of Petroleum Development Levy Funds

Note 8 to the financial statements indicates that the Corporation received an amount of Kshs.1,359,000,000 from the Petroleum Development Fund which were utilized on implementation of two hundred and forty-five (245) rural electrification projects. This was contrary to Section 4(4) of the Petroleum Development Fund Act, 2012.

Management Response

It is true that the corporation received an amount of Kshs. 1,359,000,000 from the Petroleum Development Fund which were utilized on implementation of two hundred and forty-five (245) rural electrification projects. In the FY 2020/21 Parliament appropriated Kshs. 1,359,000,000 being Petroleum Development Levy through the printed estimates.

Committee Observation

I. The Committee observed that the query was misplaced, as the mandate to appropriate funds was within the purview of the National Assembly, while the Agency's role was limited to the implementation of the projects.
II. The Committee advised the management to liaise with the Departmental Committee on Energy to seek clarification or pursue an amendment to Section 4(4) of the Petroleum Development Fund Act, 2012.

Committee Recommendation

The matter stands resolved.

15.0. Unconnected Customers

Review of the project status report and verification of sampled projects revealed that fifty-one (51) projects valued Kshs.220,898,613 had been completed and commissioned by the Corporation. However, the metering and connection of target customers to power by Kenya Power Company Limited had not been done as required by the Service Level Agreement (SLA).

Management Response

As observed by the audit, there were customers that had not been connected and metered at the time of the audit. Over time, these customers have been connected and metered. To ensure

that customers are connected on time, the Corporation has been engaging with KPLC very closely. The list of targeted Customers is communicated to KPLC at the onset of project implementation and a reviewed list of connected Customers shared with KPLC on monthly basis.

Committee Observation

I. The Committee noted that REREC had implemented its portion of the projects, and it was the responsibility of KPLC to connect customers to power. The management informed the Committee that a section of the customers had already been connected, while others were still awaiting meter installation
II. The Committee advised the OAG to audit the matter from KPLC's end, as the responsibility for customer connections lies with them.

Committee Recommendation

The matter stands resolved.

16.0. Delayed Replacement of Defective Poles

During the financial year under review, eighteen thousand, seven hundred and fifty-six (18,756) defective poles were reported and in March, 2022 verification revealed replacements of only fifteen thousand and thirty-five (15,035) resulting to three thousand, seven hundred and twenty-one (3,721) unreplaced poles.

Management Response

The replacement of poles relates to treated wooden poles delivered from 2019 by various suppliers, which were discovered to contain low chemical retention. Our process requires that the poles be inspected and tested prior to acceptance, however, there was a problem in the testing of the poles by the Wood Scientist who determined that they met the minimum requirements and the poles were accepted. At the time of audit, a total of 18,756No poles were flagged as defective and the eighteen (18) affected suppliers were asked to replace the same. Consequently, sixteen (16) suppliers replaced a total of 15,035No poles leaving a balance of 3,721No poles attributed to two (2) suppliers.

As a result of this failure in the inspection process, disciplinary action was meted against the Inspection and Acceptance Committee while the Wood Scientist, who was subject matter expert in the committee was dismissed. The Corporation was however, unable to sustain a cause of action against the two suppliers since the poles had been officially accepted. We have since provided the respective contracts, evaluation reports, and the inspection and acceptance reports to the auditor.

Committee Observation

I. The Committee noted the management had taken steps to remedy the situation and a total of 15,035 poles were replaced, however, 3,721 poles were not replaced leading to blacklisting of two contractors and firing of the wood scientist who inspected the poles.

Further, the management submitted Contracts, evaluation reports and the inspection and acceptance reports

II. The management were advised to write demand notices and pursue court cases from the two suppliers.

Committee Recommendation

The matter remains unresolved and the OAG to keep in view in future audit cycles.

17.0. Abandoned Project

Inspection of the project on 30th March 2022 revealed that there were no ongoing activities and the contractor was not on site after partly constructing perimeter wall and one go-down. Management terminated the contract through a letter dated 30 March, 2022 but no evidence of retendering was provided for audit. Further, the cost incurred so far had not been reflected under capital work in progress.

Management Response

The contract for the foregoing works was terminated after the contractor failed to complete the project in time. Subsequently, the Corporation redesigned the project to accommodate its growing staffing needs, which called for a bigger office block, and a transformer testing facility, which were previously not covered in the earlier design. The project was subsequently competitively procured and awarded to a contractor, and the works are progressing well. It is envisaged that the works will be completed by December 2025.

Committee Observation

The Committee noted the project were retendered and the works were ongoing and classified under the Work in Progress.

Committee Recommendation

The OAG to keep the query in view in future audit cycles.

18.0. Non-remittance of Taxes

The Corporation earned from Garissa Power Plant sale of power valued at Kshs.189,040,868 which was paid into escrow account as required by the project financing agreement. However, necessary Value Added Tax was not withheld and remitted to Kenya Revenue Authority as required by Value Added Tax Act, 2013.

Management Response

This revenue is usually deposited into an Escrow Account which the corporation is not a signatory to. The same attracts Value Added Tax (VAT) which is payable to Kenya Revenue Authority.

Since the revenue is deposited into the Escrow Account, the corporation sought advice from the National Treasury through the Ministry of Energy where a meeting was held between National Treasury, Kenya Revenue Authority, REREC and Exim Bank of China where it was agreed that:

1. REREC to seek approval from National Treasury to have an amount of VAT remitted directly to Kenya Revenue Authority being settlement of VAT that has accrued so far by Kenya Power and Lighting Company limited.
2. Further, KPLC to withhold the full amount of VAT (i.e. 16%) and remit it to KRA and deposit amount net of VAT to the Escrow Account.

KPLC to remit USD 2,360,086.62 direct to Kenya Revenue Authority out of the unpaid invoices from REREC to settle the outstanding VAT on paid invoices.

Going forward to be submitting VAT charged on invoices to KRA and remit the net amount to the Escrow Account. REREC shall continue the obligation of filling monthly VAT returns.

Kenya Power and Lighting Company has since paid the VAT amount of Kshs.289,132,950 on behalf of REREC and continues to withhold and pay the taxes on behalf of REREC.

Committee Observation

The Committee noted the non-remitted tax had been paid by KPLC and going into the future KPLC would be withholding the 16% VAT and remit to KRA.

Committee Recommendation

The matter stands resolved.

19.0. Over-Representation in Committees

The Corporation's four (4) committees had five (5) members each as opposed to the maximum of four (4). This was contrary to Head of public service circular. There was no evidence of approval by the cabinet secretary in consultation with SCAC as required by the circular for increase in the number of members of the committees.

Management Response

The Corporation acknowledges the observation regarding the composition of Board Committees. It is correct that four (4) committees previously established by the Board each comprised five (5) members. Upon receipt of the Circular, the Corporation took steps to align with the prescribed governance guidelines. The Board Committees were subsequently reconstituted to comply with Paragraph B (4) of the Circular, which limits committee membership to not more than one-third of the full Board.

Committee Observation

The Board Committees were reconstituted to align with the Head of Public Service Circular Ref. OP/CAB.9/1A dated 11th March, 2020 on the management of State Corporations.

Committee Recommendation

The matter stands resolved.

FY 2021/2022

1.0. Unsupported Trade and Other Payables from Exchange Transactions

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

2.0. Inaccuracies in Receivables from Exchange Transactions

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

3.0. Inaccuracies in Property, Plant and Equipment

3.1. Unsupported Overhead Distribution Lines

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

3.2. Capital Work in Progress

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

3.3. Unsupported Expenditure on Land Survey Services

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

4.0. Unresolved Prior Year Matters

In the audit report of 2020/2021 financial year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to resolve them.

Committee Observation

The urged the management to FastTrack the implementation of the recommendations.

5.0. Irregular Utilization of Petroleum Development Levy Funds

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

6.0. Unaccounted for Development Grants

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

7.0. Abandoned Project

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

8.0. Unapproved Investment of Surplus Funds

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

FY 2022/2023

1.0. Unconfirmed Court Deposits

As disclosed in Note 28 to the financial statements, the balance includes Kshs.55,000,000 in respect of court case deposit arising from dispute between a supplier of conductors and the Corporation. The court instructed the deposit to be made in a joint account held by the advocates representing the Corporation and the supplier. The existence of these monies held in the joint account of the advocates could not be confirmed since no confirmation of the bank balance was provided for audit verification.

Further, even though the Corporation never filed or appealed against this case, an additional Kshs.5,0000,000 was deposited in court through its advocates as a condition for appeal on the case in 2015.

Management Response

The Plaintiff in Nairobi HCCC No. 541 of 2012 instituted proceedings against the then Authority on 24.08.12 claiming the sum of Kshs. 30,477,023.00 plus interest at the rate of 18% from 23.10.11 and costs, being the sums due and owing in respect of goods delivered to the then Authority sometime in 2012. The Plaintiff's claim is for refund of customs duty differential amounts. The Plaintiff further alleged that the tender sums paid included custom duty at the rate of 10%, yet it paid 25% following the East African Community Gazette dated 22nd March, 2011 which increased the duty from 10% to 25%.

On 18th November, 2014, the High Court entered judgment against the then Authority for Kshs. 30,477,023, interest at 18% effective from 23rd October, 2011 until payment in full and costs with interest thereon. On 18th June, 2015, the Plaintiff sought to execute the judgment against the Authority. The Authority moved the Court seeking for stay of execution. On 30th June, 2015, the Court issued orders and among others directed that the sum of Kshs. 5,000,000.00 be deposited in court by 6/7/2015 pending the hearing of the application on the stay of execution. On 4th February, 2016, the Court stayed the execution of the decree on condition that the then

Authority deposits the sum of Kshs. 50,000,000.00 in a joint interest earning account in the names of the Advocates representing the parties within 30 days of the ruling. Consequently, the Authority complied with both orders of the Court. (Annex 20 (a): Copy of the Court Order dated 30.06.2015 and Annex 20 (b): Copy of the Court Order dated 25.02.2016).

The Corporation sought for an opinion from its Advocates on the chances of success of the matter if the same were to proceed to appeal. This was against the backdrop of a similar matter being settled on the opinion that the chances of success at appeal were slim. Given this position, the Advocate was under instruction to engage the Plaintiff's lawyers in a bid to conclude the matter. However, in the year 2022, it was brought to the Corporation's attention that the Plaintiff had two set of lawyers fighting over its representation. Once this was resolved by the Court, the Plaintiff's now Advocates made an application for the release of the money deposited in the joint interest account culminating to the orders of the Court issued on 22nd May, 2023.

Current status

Pursuant to the ruling of the Court dated 22nd May, 2023, the court issued orders among others that the sum of Kshs. 45,000,000.00 together with interest so far accrued in the joint account be released to the Plaintiff's Advocates. The Court further ordered that the balance thereof to continue to be held in the joint account in accordance with the orders of the court of 25.02.2016. (Annex 20(c) - is a copy of Court Order dated 22nd May, 2023).

In order to ascertain the amounts being held in the joint account, the Corporation has made an application seeking for a Sealed Court order. The ruling to this application will be delivered on Notice.

The amount of Kshs. 5,000,000.00 is still being held in court pursuant to the Court order dated 30.06.2015.

Committee Observation

The Committee noted the management had provided a proper response however evidence to support the court deposits were not provided.

Committee Recommendation

The Committee directed the management submit proof of deposit for the ksh 5,000,000 and bank details and receipt relating to the Ksh 50,000,000 to the OAG by 1/08/2025 for verification.

2.0. Unsupported Trade and Other Payables from Exchange Transactions

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

3.0. Inaccuracies in Property, Plant and Equipment

3.1 Doubtful Training Expenditures

It is imperative to note that the Corporation had installed other yards and/or offices with CCTVs and there were no new developments in the manufacturers' products and this visit was unjustified. Additionally, no support evidence was provided for the payment on training made by the supplier to the manufacturer.

Also, the staff did not provide proof of training and it remains unknown how such a training was beneficial to the Corporation. The training on ERP was being sponsored by the implementers of the system. Subsequently, neither the location of the training was disclosed nor the evidence of payment of the training fee made available.

Further, back to office report by the trainees and/or certificates on completion of training were not provided for audit review. The training of the software was supposed to be borne by the supplier as provided for in the contract and, therefore, the Corporation should not have incurred the expenditures.

Management Response

To enhance asset security, operational accountability, and inventory integrity, the Corporation has progressively invested in closed-circuit television (CCTV) surveillance systems.

The objective of the training was to equip the nominated officers with the necessary skills and technical knowledge to provide effective post-installation support for the installed system. While the training itself was fully covered by the supplier, the Corporation (REREC) was responsible for covering travel and accommodation expenses. The choice of training location was driven by the unavailability of equivalent certified training in Kenya at the time, and the need for hands-on exposure to the actual backup appliance environment.

Upon completion, the officers were awarded official Veritas Certificates, and submitted a comprehensive back-office report covering system configuration, integration workflows, backup policies, and recovery protocols. This has significantly enhanced internal capacity, reduced reliance on third-party support, and ensured the Corporation is now capable of safeguarding its mission-critical SAP data in line with international standards and disaster recovery best practices.

Committee Observation

The Committee noted that the training was essential for staff to effectively handle and operate the CCTV system. The management covered the daily subsistence allowances, while the supplier met the training costs.

Committee Recommendation

The matter stands resolved.

3.2 Unaccounted for Tablets

The Corporation procured 30 Lenovo tablets at a unitary cost of Kshs.75,638 amounting to Kshs.2,269,140 out of which 13 tablets totalling Kshs.983,291 were not provided for verification,

eleven (11) of them were issued to the previous Board of Directors in September, 2022, eight months prior to end of their tenure. A physical verification on 1 December, 2023 revealed that none of the directors returned the tablets when their term lapsed, two more devices could not be accounted for. Even though these devices could not be physically verified, the Corporation still included them as their assets.

Management Response

The Corporation formally issued written requests to the former Board directors seeking the return of the tablets that had been issued during their tenure for official use. These communications outlined the expectation for asset return upon expiry of their term and formed Part of the Corporation's asset recovery procedures.

Committee Observation

I. The Committee noted that the tablets were issued to the Directors to facilitate them in carrying out their mandate, given that the electronic gadgets depreciated rapidly, the Committee urged the management to apply the policy on depreciation of assets to these unaccounted tablets.

II. The Committee advised the management to come up with a policy that, in future, items (depreciated electronics) used by officers who have rendered their services to the organization should be written off and excluded from the asset register.

Committee Recommendation

The Committee to make recommendation in its report.

3.3 Unconfirmed Additions of the Energy Centres

As disclosed in Note 32 to the financial statements, the balance includes additions of Kshs.261,675,000 being the value of land and buildings, furniture and fittings, computers and plant and equipment of seventeen energy Centers in the country transferred during the year from the Ministry of Energy.

However, it was not established how the Corporation determined the value of the energy Centers' land and buildings and recognized the same in the financial statements yet fourteen (14) of the energy Centres do not have title deeds. Further, Management did not provide any reason why furniture and fittings, computers and plant and equipment were not depreciated during the year.

Management Response

The corporation relied on the closing balances for audited financial statements for the MoE for FY 2021/s2022. Thereafter, REREC engaged the services of Ministry of Lands and Public Works for valuation of the said assets. The exercise has since been concluded and the corrected valued reported in the subsequent financial years. The Corporation has been working towards acquisition of title documents.

Committee Observation

The Committee observed that valuation of assets was done and depreciation effected. The management had not yet acquired ownership of thirteen energy centres and were in the process of obtaining the documents.

Committee Recommendation

The matter is partially resolved and the OAG to keep the matter in view in future audit cycles.

3.4 Unsupported Expenditure on Land Survey Services

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

3.5 Unsupported Capital Work in Progress

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

4.0. Inadequately Insured Assets

However, the computers, accessories and other electronic equipment reported book value as at 30 June, 2022 was Kshs.120,533,000. Further, 103 number laptops were procured in June 2022 and an additional 256 number laptops procured in July, 2022. However, only 259 laptops were insured leaving 100 laptops uninsured.

Further, the Corporation insured Lot 3 Garissa Solar Plant through a local underwriter at total premium amount of Kshs.43,045,045. However, the land where Garissa solar plant lies is a disputed land and the Corporation does not possess a title deed for the land.

Management Response

In the FY 2023/2024 the 100 laptops were included in the Insurance terms of reference and are fully insured. With regards to the Garissa Solar Power Plant, the delay in formalization of the land where the Solar Power Plant is situated is attributed to a court case. The Corporation has since acquired the Part Development Plans of the solar power plant. Despite title acquisition not having been finalized, the solar power plant forms part of the Corporation's assets and thus, an insurable interest.

Committee Observation

The Committee noted that 100 laptops had been insured, and despite the management not possessing ownership documents for the Garissa Solar Plant, the plant had been recorded in the asset register and insured.

Committee Recommendation

The query stands resolved.

5.0. Unapproved Staff Harmonization

The Corporation undertook a staff harmonization process that was only approved by the Board during its 52nd Full Board meeting held on 6 December, 2022 vide minute number 6. However, neither the National Treasury approval confirming availability of funds nor Salaries and Remuneration Commission approval was obtained. Further, Management did not disclose the criteria of promotion which include *inter alia* years of experience/ service, academic qualifications, basis of merit regarding the appraisal documents.

Management Response

The Corporation developed new Human Resource Instruments in the year 2019 which were approved by the Board and State Corporations Advisory Committee (SCAC) in the 2019. Among other things, the HR Instruments changed the grading structure for most of the job groups especially for the entry levels. Implementation of the Instruments also required the recruitment of an initial 234 no. of staff to take up various vacancies created in the instruments.

Consequently, the Corporation sought approval from The National Treasury to expand the A.I.A ceiling in the 2021/2022 FY budget to accommodate the budget for implementation of the HR Instruments which was granted.

In addition to the approval from The National Treasury to expand the ceiling, the Corporation also conformed to the SRC guidelines on Model Salary Structure dated 7th July, 2017 issued to the Corporation wherein it was indicated that where the current obtaining rates were higher than those in the model, the same were to be retained.

Committee Observation

The Committee observed the management had obtained approvals from the National Treasury, State Corporations Advisory Committee (SCAC) and complied with the SRC guidelines on Model Salary Structure dated 7th July, 2017.

Committee Recommendation

The query stands resolved.

6.0. Irregular Extended Probation Period

The Corporation filled two hundred and thirty (230) vacant positions in March, 2022 with a six-month probation period ending in October, 2022. On expiry of the probation period, only three (3) staff were confirmed while three were dismissed and ten were not assessed. The remainder, two hundred and five (205), had their probation period extended by another six months effective 1 October, 2022, to allow the Board to review their appraisal reports for purposes of confirmation in employment. These decisions were made in the 121st Human Resource

Committee meeting of the Board and ratified in the 52nd full board meeting on the 19 October, 2022 and on 6 December, 2022 respectively.

Management Response

The management forwarded a request to the Human Resource Board Committee (BHRC) to consider confirmation of staff upon expiry of the probation period. The board resolved that probation period for staff in REREC 3 to 10 be extended by a period of another six months. All staff were eventually confirmed. Going forward, the Corporation shall ensure strict compliance with the Act as part of the corrective action plan.

Committee Observation

The Human Resource Board Committee (BHRC) extended the probation period for a further six months and eventually confirmed all the staff.

Committee Recommendation

The query stands resolved.

7.0. Irregular Acting Allowance

Review of payroll and human resources records revealed that fifteen (15) officers were holding various positions in acting capacity. These officers drew acting allowances for more than six (6) months. The Corporation had continued to place these officers in those positions on expiry of the acting periods without hiring them or compensating them, some since May 2022 to date.

Management Response

We acknowledge that at the time of the audit, fifteen (15) staff had acted beyond the lawful period provided for in section 34 (3) of the Public Service Commission Act, 2017.The positions were eventually advertised and competitively filled and some of those who acted were successful in the interviews and were accorded an opportunity to fill the positions substantively.

Committee Observation

The Committee noted the vacant positions were advertised and competitively filled.

Committee Recommendation

The matter stands resolved,

8.0. Over-Payment of NHIF Deductions

During the year under review, the Corporation incurred employee costs amounting to Kshs.1,661,512,000. Included in this cost were NHIF deductions totalling Kshs.11,795,700.

However, the analysis of the NHIF deductions revealed that the Corporation did not adhere to the bands given in making these statutory deductions resulting to some over and under deductions resulting to some being below their bands while others were above.

The Corporation overcharged its employees by Kshs.501,200 contrary to section 16 (1) of the NHIF Act, 1998 (Rev. 2012).

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

Management Response

A team from the Corporation and NHIF undertook reconciliation of the remittances and deductions over the past five (5) years to ascertain the anomalies. Upon conclusion, it was established that Ksh. 911,230.00 was an underpayment to NHIF which was thereafter remitted regularizing the Corporation's account with the Fund.

Committee Observation

The management of REREC and NHIF carried out a reconciliation of the deductions and an agreed figure was established and REREC remitted the outstanding amount.

Committee Recommendation

The matter stands resolved.

9.0. Abandoned Project
Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

10.0. Enterprise Resources Planning Purchase

The SAP audit report on the existing SAP ERP system by SAP East Africa presented to the 37th Special full board meeting held on 30 June, 2017 adopted and approved purchase of S4HANA (ERP) system.

The Corporation awarded the tender and entered into several contracts with contractors totalling Kshs.588,603,590 out of which Kshs.388,633,362 had been paid by the Corporation. Subsequently to the above payments already incurred by the Corporation, additional annual license maintenance costs have been paid for three years 2020, 2021 and 2022 totalling Kshs.131,539,659.

Also, amounts of Kshs.48,000,000 and Kshs.4,000,000 was incurred in academy training for fifteen (15) key users and executive training respectively. The expenditure on executive training was part of the contract and it was not explained why the Corporation paid additional amounts.

As a result, Kshs.567,173,021 has been incurred on the S4Hana ERP since 2019 to November, 2023, a project that seems stalled and anticipated benefits from its implementation doubtful for the Corporation, four years since it started. The project was to commence on 26 September, 2019 and be completed within twelve (12) months i.e. 27 September, 2020.

Management Response

The implementation of the S/4HANA ERP system was a strategic decision approved by the Board as a transformative investment aimed at streamlining operations, enhancing reporting capabilities,

and improving overall organizational efficiency. Towards this end, the Board approved a budget of Ksh. 600 Million with several itemized items.

Given that the implementation of SAP S/4HANA ERP is a large-scale enterprise transformation project; it would follow SAP's globally recognized Activate Methodology involving the key components: Infrastructure Setup (Hardware & Hosting), Software & Licensing, Implementation Partner, Quality Assurance Oversight, Project Management Office (PMO) and Capacity Building and Change Management. To operationalize the above roadmap, the Corporation awarded contracts aligned with each key implementation pillar.

The ICT Authority (ICTA) conducted an independent assessment of the SAP S/4HANA ERP implementation and rated the overall project status at 60% completion, primarily reflecting foundational deployments and partially activated modules.

These licenses enable access to SAP's tools, support, system patches, and security updates. The licences are required during system development, Go-Live and post implementation.

As per SAP's standard policy, licenses are prepaid annually regardless of usage pace. This cost model is standard across all SAP clients worldwide.

Training – Ksh 52 Million

It is true as per the audit 48 Million and 4 Million was not part of the contract. However, the cost of training was provided for in the itemized budget of Ksh. 600 Million at Ksh. 83 Million; Therefore, the same was a role for the corporation that capacity is built and has directly contributed to current module adoption and system configuration activities.

Therefore, this scope was not part of the contract entered into between the implementation and the corporation. The same was to be implemented fully by the Corporation using the budgetary allocation under Quality Assurance, Organization & Change Management and Academy Training of Ksh. 83 Million

To complete the remaining phases, the Corporation has developed a *phased implementation strategy* that outlines prioritized module deployment, change management, and end-user enablement.

Committee Observation

The management informed the Committee that the Enterprise Resource Planning was on course in implementing and the remaining milestones would be completed in the FY 2025/2026.

Committee Recommendation

The matter remains unresolved and the OAG to keep it in view in next audit cycle.

11.0. Irregular Utilization of Petroleum Development Levy Funds
Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

12.0. Unapproved Investment of Surplus Funds

Committee Observation

The Committee noted the query had been handled in FY 2020/2021.

13.0. Irregular Acquisition of Community Land

The Corporation constructed isolated diesel stations and solar mini-grids power stations in Wajir, Mandera, Garissa and Turkana Counties on community land without following proper procedure as governed by the Land Registration Act, 2012, Land Act, 2012 and the Community Land Act, 2016. It was observed that irregular privatization/Government use of community land is an infringement of the right of the communities to property and socio-economic rights. Community lands are property held by the County Governments for their people as ancestral, cultural and grazing land for themselves and in trust for their future generations.

Management Response

The Corporation has been actively working to formalize the land titles for its diesel and solar mini-grid power stations in Wajir, Mandera, Garissa, and Turkana Counties. These stations are established on community land. REREC has not only initiated the regularization process but has also successfully engaged both the individual communities and their respective County Governments. The communities have assented to the initial donation of land for the genset developments. The County Governments have also shown their support by preparing and approving Part Development Plans (PDPs) for the sites. The Corporation communicated with the Director of Surveys office to conduct cadastral surveys on all developed sites.

Committee Observation

I. The Committee noted that the management was working closely with the local community leaders, the National Government Administrative Officers and the County Governments when implementing projects within the community lands.
II. The Committee observed that the approval of the community was enough to grant implementation of the project.

Committee Recommendation

The matter stands resolved.

14.0. Wayleaves

15.1 Wayleaves Creation and Registration

Committee Observation

The observation made in the Wayleaves Compensation query applies to this query.

15.2 Wayleaves Compensation

The creation of wayleaves is a form of land acquisition as the occupant of the land extinguishes as thread of his/her rights as to the portion of land that the entity will require. During field

inspections, it was noted that REREC does not compensate the landowners who give consent for the use of their land. Further, the Corporation did not keep or have a valuation report for the damage it had done for the areas it had placed power lines.

Management Response

As observed in the audit, section 45 of the Law of Succession Act Cap 160, prescribes that there should be no intermeddling with the property of the deceased person, except as may be expressly authorized by the Act, or by any other written law, or by a grant of representation.

REREC has acknowledged the issue and has since put in place internal control measures. The measures include the establishment of the Geospatial department, Lands Section, and Advocacy department whose mandate is to acquire wayleaves internally, analyze lands documents, and sensitize the public on the need to grant wayleaves respectively.

REREC does not compensate for the wayleave trace for Low Voltage, 11kV and 33kV since it is untenable, but compensates for the Wayleave trace for its 66kV sub-transmission lines. With the foregoing and as guided by the industry practice in Kenya, it unlawful to create an encumbrance on another's title without acquisition and compensation for the land. However, for 66kV sub-transmission lines, the Corporation works closely with the landowner, the director of surveys office, the National Land Commission, and the County Governments to support in the acquisition, registration, and noting of the wayleaves in the maps accordingly.

Committee Observation

I. The Committee observed that REREC does not acquire ownership of the land on which transmission lines are constructed; this also applies to KPLC infrastructure. Thus, the wayleaves are provided free of charge by the public.
II. The Committee stated this observation applies to all queries that relates to Wayleaves.

Committee Recommendation

The Committee recommends the mater as resolved.

15.3 Wayleaves Consent on Succession Lands

Committee Observation

The observation made in the Wayleaves Compensation query applies to this query.

15.4 Wayleaves Consent on Community Land

Committee Observation

The observation made in the Wayleaves Compensation query applies to this query.

15.0. Excess Board Committees Membership

The Corporation's board established four committees all of which had an excess member as the membership exceeded a third of the entire board membership. Further, one board member was in three committees contrary to the ceiling of the allowable maximum of two. No written approval of the Cabinet Secretary on this exception was provided.

Management Response

The Corporation acknowledges the observation regarding the composition of Board Committees. It is correct that four (4) committees previously established by the Board each comprised five (5) members.

However, the constitution of these Board Committees took place on 15th February 2019, which was prior to the issuance of the Head of Public Service Circular Ref. OP/CAB.9/1A dated 11th March, 2020 on the management of State Corporations. The Board Committees were subsequently reconstituted to comply with Paragraph B (4) of the Circular.

Committee Observation

The Committee noted the Board Committees were reconstituted to comply with the Head of Public Service Circular Ref. OP/CAB.9/1A dated 11th March, 2020 on the management of State Corporations.

Committee Recommendation

The matter stands resolved.

16.0. Ineffective Project Management

During the year under review, it was established that projects currently under implementation by the Corporation are behind schedule as they take more than the prescribed six (6) months for construction that is the standard period for labour and transport contracts in the entity. This exposes the Corporation to litigations as the contractors are operating without renewed/ valid contracts.

Management Response

The Corporation acknowledged the audit observation regarding delays in the completion and commissioning of certain projects. While efforts had been made to implement the projects within the stipulated timelines, several challenges were encountered during implementation, as outlined below, along with the measures taken to mitigate them. We have since completed and commissioned the projects.

Committee Observation

The Committee noted that the management had faced challenges during the implementation of the projects; however, the projects had since been commissioned. The management further submitted that a performance management system was in place to guide project implementation.

Committee Recommendation

The query stands resolved.

MIN.NO.NA/PIC-CA&E/2025/0119: ADJOURNMENT

There being no other business, the meeting was adjourned at 2:25 pm. The next meeting will be held on notice.

Signature .....

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date.....29/07/2025.....

MINUTES OF THE 26TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY, 29TH JULY 2025 ON 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Dr. John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. Festus Mwangi Kiunjuri, EGH, M.P
4. Hon. Sarah Paulata Korere, M.P
5. Hon. Dr. Babu Owino Paul Ongili, M.P
6. Hon. Dr. Beatrice Adagala, M.P
7. Hon. Paul Kahindi Katana, M.P
8. Hon. Charo Kazungu Tungule, M.P
9. Hon. David Kiplagat M.P.
10. Hon. Duncan Mathenge Maina, M.P

APOLOGIES

1. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
2. Hon. Esther Muthoni Passaris, M.P.
3. Hon. Betty Njeri Maina, M.P
4. Hon. Ronald Kamwiko Karauri, M.P
5. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Ms. Wanjiru Mwaura	-	Principal Clerk Assistant I
2.	Mr. Ahmad Guliye	-	Clerk Assistant I
3.	Mr. Andrew Kipchumba	-	Clerk Assistant III
4.	Ms. Angela Musau	-	Legal Counsel II
5.	Mr. Brian Njeru	-	Fiscal Analyst II
6.	Mr. Timoty Chiko	-	Research Officer III
7.	Mr. Amos Tindi	-	Hansard Reporter II
8.	Mr. Brian Ojaamong	-	Media Relations Officer
9.	Ms. Roselyne Ndegi	-	Serjeant-At-Arms
10.	Ms. Mercyline Kerubo	-	Audio Officer

OFFICE OF THE AUDITOR GENERAL

1.	Mr Daniel Kuria	–	Principal Auditor
2.	Mr Fredrick Omondi	–	DDA
3.	Mr Walter Were	–	Principal Auditor

KENYA ELECTRICITY TRANSMISSION COMPANY (KETRACO)

1.	Eng. (Dr) John Mativo	–	MD/CEO
2.	Mr Tom Imbo	–	GM, FINANCE
3.	Mr Anthony Wamukota	–	GM, B&C
4.	Ms Florence Mitey	–	CS & GM, LEGAL
5.	Ms Mildred Mwihaki	–	FINANCE
6.	Ms Jane Vuligwa	–	SMSCM
7.	Mr Kibias Kipkemoi	–	GM, SOPM
8.	Mr Jackson Hachara	–	FINANCE
9.	Mr Phaneul Muchende	–	FINANCE

MIN. NO. NA/PIC-CA&E/2025/120: PRELIMINARIES

The meeting was called to order at 10:10 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2025/121: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholders to the meeting. He stated the Committee would examine the audited accounts of KETRACO for the FY 2018/2019 to FY 2022/2023.

MIN.NO.NA/PIC-CA&E/2025/122: CONFIRMATION OF MINUTES

I. The minutes of the 12th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. David Kiplagat, MP and Hon. Beatrice Adagala, MP respectively.

II. The minutes of the 13th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Beatrice Adagala, MP and Hon. Charo Kazungu Tungule, MP respectively.

III. The minutes of the 14th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Paul Katana, MP and Hon. Babu Owino Paul Ongili, MP respectively.

IV. The minutes of the 15th sitting of the third session of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Charo Kazungu Tungule, MP and Hon. Duncan Mathenge, MP respectively.

V. The minutes of the 16th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Babu Owino Paul Ongili, MP and Hon. David Kiplagat, MP respectively.

VI. The minutes of the 17th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Paul Katana, MP and Hon. Beatrice Adagala, MP respectively.

VII. The minutes of the 18th sitting of the third session of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Babu Owino Paul Ongili, MP and Hon. Duncan Mathenge, MP respectively.

VIII. The minutes of the 19th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. David Kiplagat, MP and Hon. Charo Kazungu Tungule, MP respectively.

IX. The minutes of the 20th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Beatrice Mathenge, MP and Hon. Duncan Mathenge, MP respectively.

X. The minutes of the 21st sitting of the third session of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. David Kiplagat, MP and Hon. John Ariko, MP respectively.

XI. The minutes of the 22nd sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Babu Owino Paul Ongili, MP and Hon. John Ariko, MP respectively.

XII. The minutes of the 23rd sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. David Kiplagat, MP and Hon. Babu Owino Paul Ongili, MP respectively.

XIII. The minutes of the 24th sitting of the third session of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Beatrice Adagala, MP and Hon. Paul Katana, MP respectively.

XIV. The minutes of the 25th sitting of the Committee were confirmed as a true reflection of the Committee's proceedings having being proposed and seconded by Hon. Paul Katana, MP and Hon. Charo Kazungu Tungule, MP respectively.

MIN.NO.NA/PIC-CA&E/2025/123: MEETING WITH THE CHIEF EXECUTIVE OFFICER, KENYA ELECTRICTY TRANSMISSION COMPANY (KETRACO) TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2018/2019 to FY 2022/2023

The management of KETRACO, led by the Managing Director appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2018/2019 to FY 2022/23.

FINANCIAL YEAR 2018/2019

1.0. Contingent Liabilities

The financial statements which discloses that the Company's estimated contingent liabilities consist of ongoing court cases relating to acquisition of wayleaves and contractors' claims beyond the original contract period, amounting to Kshs.12,967,306,000. However, in the event that these

contingent liabilities crystalize, the Company may be exposed to unforeseen project cost overruns, resulting to inability to meet its obligations when they fall due.

Management Comment.

The status of these exposures is updated on a regular basis to assess the probability of incurring related liabilities. The significant contribution is the Arbitral award case relating to the termination of the contractor of Interconnection of Electric Grids of Nile Equatorial lakes countries (Kenyan Parts) Kenya- Uganda Lot A 400kV Lessos Tororo project. The contingent liability have been disclosed in the note 28 to the financial statements.

Committee Observation

I. The Committee was informed that the court case had concluded and an award of 37 million Euros was awarded to the contractor. At the time of termination of the contract the works were at 51% and the cause of termination of the contract was due to abandoning of the site by the contractor. Further, the Committee noted the challenge of wayleave acquisition had led to the abandoning of site by the contractor.
II. The management of KETRACO were in the process of arbitration to settle the court award and were liaising with the relevant ministries to first settle the principal award amounting to 31 million Euros and discussing the waiving of the interest amount.
III. The Committee was concerned that the project had delayed and the value for money and benefits of the transmission line might not be realized unless KETRACO progresses the idea of completing the project.

Committee Recommendation

I. The Committee recommends that KETRACO acquires the wayleave rights before entering into contracts when implementing projects.
II. The management to fast track the progress of settling the court award and progress the remaining works.
III. The OAG to keep the matter in view in future audit cycles.

2.0. Liquidation of Contractor under Exim Bank of India Projects

This contractor was contracted at a contract sum of USD 19,972,680, later revised downwards to USD 18,100,120. In July, 2018, the courts in India ordered liquidation of the contractor, resulting in financial challenges which made the contractor unable to complete the project. According to Management, by the time of liquidation in the home country, the contractor had achieved an overall completion status of 78% of the project. By the time of this audit, another contractor was in the process of being identified as a replacement to take over the remaining works.

Management Comments:

Exim Bank in their approval No. GOILOC-140[2] dated 31st October, 2013 giving KETRACO the go-ahead to engage Jyoti Structures Ltd to construct substations at Turkwel, Ortum and

Kitale. Exim Bank of India gave authority to proceed and procure a replacement for Jyoti Structures. The project commenced in June 2022 for the new contractor and was completed in August 2024 as per the completion certificate.

Committee Observation

The committee was satisfied with the management response provided and resolved the query.

3.0. Expiry of Loan Agreement

The loan agreement between the Company and African Development Bank for the construction of 132KM of 400KV double circuit transmission line from Lessos substation in Kenya, to Tororo substation in Uganda, which was effective from 20 September, 2010 expired on 31 December, 2017. At the time of expiry of the agreement, the loan account had an undrawn balance of Kshs.2,720,466,827. There was no evidence that the loan agreement had been renewed thus leaving an undrawn balance of Kshs.2,720,466,827.

Management Comments:

The contracts with the main contractor (Inabensa) for the project were terminated in April 2016. As at the time of termination the project was at 61% level of completion. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Ksh. 102,165,144.20. KETRACO Management has requested The National Treasury through Ministry of Energy to finance completion of the project.

Committee Observation

I. The Committee noted a court process awarded the contractor damages for contract termination and the management had requested the National Treasury to finance the completion of the project.
II. The matter relates to the *Contingent Liabilities query* and reiterates its observation and recommendation.

Committee Recommendation

The matter stands resolved.

4.0. Arbitration on Terminated Contract

The arbitration case between the Company and Instalaciones Inabensa S. for termination of contract for the construction of 132KM of 400KV double circuit transmission line from Lessos substation in Kenya to Tororo substation in Uganda, has been unresolved since April, 2016. However, on 30 July, 2019, the tribunal issued an award in favour of the contractor amounting to Kshs.4.5 billion. Management considers the decision to be against public interest and have sought the Attorney General's office for assistance in setting aside the tribunal's award. The delay in resolution for the past three financial years (2017-2019) has resulted in an expenditure on legal fees amounting to Kshs.101,791,087.

Management Comments:

The contracts with the main contractor (Inabensa) for the project were terminated in April 2016. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Ksh. 102,165,144.20. The Company has requested The National Treasury through Ministry of Energy for the financing of the project.

Committee Observation

The matter relates to the *Contingent Liabilities query* and reiterates its observation and recommendation.

5.0. Pending Wayleave Compensations

According to information available, the Company has outstanding compensation to landowners for wayleaves amounting to Kshs.3,397,470,947. Management has attributed failure to pay this amount to lack of budgetary allocation from The National Treasury and long negotiations between land owners, the Company and various County Governments.

Management Comments:

The company continues to receive exchequer support from the Government of Kenya to facilitate payment of pending wayleaves, Payment of outstanding wayleaves is based on available budget. The company is collaborating with other government agencies to resolve disputes relating to wayleave compensation. Wayleave balance as at June 2025 has reduced to Kshs. 1,471,498,660.81.

Committee Observations

I. The management had made efforts to compensate the landowners, resulting in a significant reduction of the outstanding amounts. However, some long-standing wayleave compensation cases remained pending.
II. The Committee was informed that two transmission lines serving the western region of the country; the Ndhiwa–Sondu line and the Narok–Bomet line, had experienced challenges related to wayleave compensation, resulting in delays in project completion.

Committee Recommendation

I. The Committee to canvass on the western region lines wayleave compensation delays during the Energy sector roundtable.
II. The matter remains unresolved and the OAG to keep in view in future audit cycles.

6.0. Delay in Completion of Projects

According to reports on the projects' physical progress, there were significant delays in completion of four (4) of the projects under implementation by the Company, details of which have been enumerated severally in the respective projects audit report.

Management Comments:

a). Kenyan Section of Interconnection Project of Electric Grids of Nile Equatorial Lakes Countries Project.

The contracts with the main contractor (inabensa) for the project were terminated in April 2016. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Ksh. 102,165,144.20. Management has requested The National Treasury through Ministry of Energy to finance completion of the project. This will allow for completion of the project hence realization of service delivery to the public.

b). Kenya Power Transmission System Improvement Project

The contractor for the Substations China CAMCE Co. Ltd finished the associated substations and issues with completion certificate in 2015 as per the attached completion certificate.

The contractor had completed Ishiara Kieni and Bomet Sotik Transmission Lines as per the attached completion certificate. The project remaining sections are Mwingi wote which is at 75% complete and Lessos Kabarnet which is at 95% complete.

c). Exim Bank of India Funded Projects

Both Turkwel Ortum Kitale and Machakos Konza Kajiado Namanga are 100% complete.

d). Multinational Kenya Tanzania Power Interconnection Project.

The project was completed in 2024 and will be capitalized in the current financial year 2024/2025.

Committee Observation

The Committee made the following observations regarding the four projects: -

i. Kenyan Section of Interconnection Project of Electric Grids of Nile Equatorial Lakes Countries Project - The project had stalled due to contract cancellation and currently no works were ongoing.
ii. Kenya Power Transmission System Improvement Project - the project was completed bar two parts; Lessos-Kabarnet was 95% complete and Kitui- Wote was 75%, with both having a target completion date of October 2025.
iii. Exim Bank of India Funded Projects - the project fully completed.
iv. Multinational Kenya Tanzania Power Interconnection Project. - the project fully complete.

Committee Recommendation

I. The Committee resolved to undertake an inspection visit to one of the ongoing projects to evaluate the implementation progress.
II. The Committee recommends the OAG to keep the matter in view in future audit cycles.

7.0. Lack of Contractual Agreements for Revenue Billing

The Company does not have a signed agreement with Kenya Power and Lighting Company (KPLC), which sets the terms for billing the wheeling revenue. Although, according to Management, wheeling revenue is based on a tariff determined by an independent party, Management should ensure that a contract is drawn and signed with KPLC, specifying the terms and conditions of the credit period.

Management Comments:

The Accounts Receivable relate to unpaid wheeling revenue by Kenya Power, who is KETRACO's major customer. The company has a draft remittance agreement. The company has policy guidelines on debtors' management as captured in finance procedures and policy manual.

Committee Observation

I. The management had prepared a draft remittance agreement to guide revenue billing. However, the Committee observed that KPLC's prolonged delay in accepting the proposed terms rendered the prospect of reaching an agreement unlikely.
II. The Committee was informed that the two parties carry out revenue reconciliation on a monthly and quarterly basis.

Committee Recommendation

The Committee recommends the OAG to keep the matter in view in future audit cycles.

8.0. Lack of Projects and Company Inter-Reconciliation

The Company's financial reporting framework is International Financial Reporting Standards (IFRS), while the donor funded projects' financial reporting framework is Report of the Auditor-General on Kenya Electricity Transmission Company Limited for the year ended 30 June, 2019 5 International Public Sector Accounting Standards (IPSAS Cash Basis). However, no periodic reconciliations are carried out between the Projects' and the Company's financial statements with the view of reconciling the balances in the two sets of financial statements, which are prepared under different reporting frameworks.

Management Comments:

During the year management ensured that the 'discrepancies' arising from the different Reporting Basis for projects and financial reports are reconciled regularly. It is true the company's financial statements, and the Projects Financial statements are prepared under different financial reporting frameworks as per the templates published by public sector accounting standard board (PSASB). However, these two financial statements are audited independently and reports issued thereafter.

Committee Observation

The management had complied with the Public Sector Accounting Standard Board (PSASB) as in the preparation of company's financial statements and the Projects Financial statements. Further, reconciliation of the separate statements are carried out and audited independently.

Committee Recommendation

The matter stands resolved.

9.0. Lack of Policy for Provision for Doubtful Accounts

The assessment on the controls on debt management indicates that the Company does not have a clear documented policy for determining provision for doubtful receivables, against the trade receivables totaling Kshs.24,263,000.

Management Comments:

The updated finance policies and procedures manual incorporates a policy on provision for doubtful debts. The policy document was approved by the board of directors in FY 2019/20.

Committee Observation

The management had an approved finance policy and procedures manual document in place that caters for Provision for Doubtful Accounts.

Committee Recommendation

The matter stands resolved

10.0. Lack of an Updated ICT Policy and Procedures Manual

Review of the Company's policy manuals revealed that the ICT policy and procedures manual was last reviewed in September, 2010. Although according to Management the policy review is on-going, the policy documents are yet to be formally signed off by Management. Management has not periodically reviewed and updated the ICT policies, which would guide both the ICT staff and business users on how to interact with the ICT systems.

Management Comments:

The departmental policies have been reviewed and approved by board of directors. The ICT policies have now been updated with the controls and sections highlighted were addressed.

Committee Observation

The Committee observed the management had an approved ICT Policy and Procedures Manual.

Committee Recommendation

The matter stands resolved.

FINANCIAL YEAR 2019/2020

1. **Contingent Liabilities**

Committee Observation

The query was recurring and handled in FY 18/19.

2. **Recoverability of Amounts due from Kenya Power and Lighting Company Limited (KPLC)**

Committee Observation

The query was recurring and handled in FY 18/19.

3. **Liquidation of Contractor Under Exim Bank of India Projects**

Committee Observation.

This was a recurring matter and handled in FY 2018/2019.

4. **Expiry of Loan Agreement with African Development Bank**

Committee Observation

This was a recurring matter and handled in FY 2018/2019.

4. **Court Award on Terminated Contract**

Committee Observation

This was a recurring matter and handled in FY 2018/2019.

6. Pending Wayleave Compensations

According to reports on the projects' physical progress, there were significant delays in completion of five (5) of the projects under implementation by the Company, detail of the pending project which had not been handled is listed below.

Nairobi Ring Transmission Line – the ongoing works related to Malaa Substation is at 64% completion status.

Management Response

Nairobi Ring Transmission Line Project -Delays in completion of Malaa substation was occasioned by delayed site hand over for the substation in June 2018 as well as the disruptions of Covid-19 pandemic in 2020. The project is adequately funded therefore the escalation of project costs is less probable since the project is currently on course and is expected to be completed in February 2026.

Committee Observation

The four projects had been handled in FY 2018/2019. However, the Committee noted the Nairobi ring transmission line was 85% complete with a set completion date of February 2026.

Committee recommendation

The Committee directed the OAG to visit the Nairobi Ring Transmission line and confirm the status of the project in the next audit cycle.

7. Delay in Completion of Projects

Committee Observation

The query was recurring and the matter had been handled in FY 2018/2019.

8. Non-Compliance with Loan Novation Agreement

According to the novation agreement, KETRACO is required to make bi-annual payments to the Government of Kenya (GoK) on account of outstanding interest at a rate of 2.5% per annum. However, as at 30 June, 2020, the Company had not made any payments to the GoK, as stipulated in the novation agreement. Management has indicated that a moratorium for twenty-four (24) months had been sought from The National Treasury. However, this request for moratorium was yet to be considered by The National Treasury.

Management Comments:

The company has engaged EPRA to consider additional tariff allocation to be utilized in repaying the loan. In the meantime KETRACO has made two repayments to the National Treasury of KES. (288,458,384.00) in 30 June 2025.

Committee Observation

The management had engaged EPRA to approve the addition of tariff to be utilized in repaying, however EPRA had not responded to the request. The management have so far made effort and repaid kshs. 288,458,384.00 of the loan.

Committee Recommendation

The matter remains unresolved and the OAG to keep in view.

9. Undrawn Funding Balances under Eastern Electricity Highway Project

The Eastern Electricity Highway Project had an approved budget of USD 441,000,000, UA 75,000,000, EUR 77,500,000 and Government counterpart funds of Kshs.8,585,000,000, all equivalent to Kshs.75,803,028,400. The project was expected to be completed by 30 September, 2020. However, as at 30 June, 2020, there was an undrawn balance of Kshs.35,658,914,156 or approximately 47% of the project funding, and pending bills of Kshs.2,640,343,389. The undrawn funding might not be absorbed fully by the time of expiry of the funding period on 31 December, 2022.

Management Comments

KETRACO got approvals from the development partners to utilize the savings as follows;. Kenya Green and Resilient Expansion of Energy (GREEN) Phase II was envisaged to be financed under the savings from Eastern Electricity Highway Project (EEHP, P126571). The available funding under the EEHP was therefore planned for cancellation. The ADB financing savings were redirected to support the construction of Mariakani Substation and the Nanyuki–Rumuruti Underground Cable Projects.

Committee Observation/ Recommendation

The committee was satisfied with the management response provided and resolved the query.

10. Asset Tagging and Physical Verification

Review of the Company's fixed assets register revealed that the assets are not tagged, and the Company does not carry out periodic asset verification to verify existence of the assets. Consequently, lack of tagging and physical verification may lead to the assets being damaged, lost or stolen. Furthermore, it may be difficult to verify the existence of such assets since they cannot be traced from the register to the various locations.

Management Responses:

The company has since undertaken asset tagging and physical verification of all movable assets and updated the asset register.

Committee Observation/Recommendation

The committee was satisfied with the management response provided and resolved the query.

FINANCIAL YEAR 2020/2021

1.0. Deferred Grant Income

Review of records revealed that the Company received an amount of Kshs.19,836,802 from the Ministry of Energy. However, records from the Ministry reflected an amount of Kshs.10,831,798,269 resulting to an unexplained variance of Kshs.9,005,004,000. Further, the statements of profit or loss and other comprehensive income reflects amortized grant from Government income amounting to Kshs.2,192,104,000 which differs with the current grant amortization reported in the previous year as grant income to be amortized over 12 months of Kshs.2,233,745,000 resulting to an unexplained variance of Kshs.41,641,000.

Management Response:

The Total grant addition was 19,836,802,000 comprising of Exchequer Development 6,816,300,000 and Development partner support 13,020,502,000 as per note 20 of the financial statements. The Development partner support comprises of Direct component of 9,005,004,000 and Revenue Transfer through the Ministry of 4,015,498,000.

Computation of deferred grant income only takes into account projects that have been capitalized as per IAS 20(Accounting for Government Grants and Disclosure of Government Assistance). It is expected that deferred grant income will keep on changing due to changes in assets value. The amortization year by year is based on the closing balances of the Assets financed by the deferred grant income. Find attached amortization schedule for financial year 2019/2020 and financial year 2020/2021.

Committee Observation/Recommendation

The committee was satisfied with the management response provided and resolved the query.

2.0. Capital Work in Progress

Review of the financial records revealed that projects valued at Kshs.17,015,210,520 were completed in the previous financial years but had not been capitalized. Management has not explained the reasons for not capitalizing the projects. Further, projects valued at Kshs.25,566,410,286 were still ongoing but had exceeded their respective contract completion dates.

Management Response:

Note 13 total work in progress for financial year 2020/2021 is Kshs 111,471,881,000 which is supported by a schedule.

Committee Observation

The Committee noted the response provided was insufficient to answer the audit query.

Committee Recommendation

The management was directed to revise their response to this query, and will be considered during the next meeting with the Agency.

3.0. Trade and Other Payables

3.1 Unsupported VAT Payable

The balance includes, VAT payable output tax amounting to Kshs.1,163,953,516 that was not supported by VAT returns duly acknowledged by Kenya Revenue Authority.

Management Responses:

The VAT payable amount of Kshs 1,163,953,516 is the cumulative VAT on sales captured in the SAP system under the VAT output account. This amount has been declared through the monthly VAT returns which is inclusive of a detailed schedule of the VAT amount payable. Journals have been passed to offset the cumulative amount in VAT output against the cumulative VAT input amount and a reconciliation of the net balance in the VAT payable account provided.

Committee Observation/Recommendation

The committee was satisfied with the management response provided and resolved the query.

3.2 Undisclosed Amounts Due to Kenya Electricity Generating Company Limited

A balance of Kshs.4,481,056,467 in respect of transmission lines that were done during the financial year 2008/2009 or earlier by Kenya Electricity Generating Company (KenGen) and which are used in the furtherance of Company's business for revenue generation. Further, although the transmission lines were financed through a loan, the Company has not recognized any interest charged on this loan since the takeover of the lines.

Management Responses:

The novation agreement was signed on 29th August 2024 and the Government through National Treasury undertook to settle the project costs on behalf of KETRACO.

Committee Observation

The novation agreement between KETRACO and KENGEN was signed on 29th August 2024.

Committee Recommendation

The matter stands resolved.

4.0. Trade and Other Receivables

4.1 Unsupported Receivables Balances

Review of the financial records revealed unsupported adjustments of Kshs.143,123,044 and Kshs.1,169,443,245 in respect of advance payments and litigation costs receivables respectively. Further, included in the trade receivables are balances of Kshs.1,630,895,645, Kshs.3,392,580,798 and Kshs.1,008,597,136 in respect of advance payment, litigation cost receivable and assets under construction advance payment respectively, whose supporting documents were not provided for audit. In addition, supporting schedule for trade and other receivables includes VAT input receivable of Kshs.1,302,920,502 that was not supported by VAT returns duly acknowledged by KRA.

Management Responses:

According to the TB and the financial statements trade and other receivables are Kshs 9,726,373,000 as per the schedule provided.

Advance payments represent sum of all advance payments paid to contractors as per contractual agreement which are to be reduced against progress payments.

Litigation costs receivable of Kshs 1,169,443,245 relates to ongoing arbitration case by Inabensa against Ketraco. These costs represent administration costs that are not to be capitalized as per IAS 16 and therefore are to be expensed once the liability crystalizes.

AUC advance represents internal funds that Ketraco used in construction of Olkaria Lessos Kisumu project. It is receivable from Government as the company is 100% owned by National Treasury

The schedule and details of the VAT input amount is included in the i-Tax return. During the filing of the VAT returns, input VAT is offset against the VAT output VAT.

VAT receivable (VAT input) amount is held in a separate account in the SAP system without offsetting it against VAT output, hence the cumulative amount.

Committee Observation/Recommendation

The committee was satisfied with the management response provided and resolved the query.

4.2 Amounts Due from Kenya Power and Lighting Company Limited

An outstanding balances arising from services rendered to Kenya Power and Lighting Company Limited (KPLC) of Kshs.5,897,754,000, However, KPLC records indicated a balance of Kshs.5,546,379,000 resulting in a variance of Kshs.351,375,000. In addition, there was no evidence of a payment plan from KPLC for the outstanding amounts at the end of the financial year under review.

Management Responses:

The variance of Kshs. 351,375,000 relates to withholding tax against the invoices that KPLC processed but not yet paid. The remittances are on a monthly basis. This has seen a reduction of receivable from Kshs 6,114,389,000 to Kshs 2,678,739,197.78 as at June 2025.

Committee Observation

The Committee noted the amount owed by KPLC had significantly reduced over the period and the two agencies were collaborating to clear the outstanding amount. Further, the variance of Kshs.351,375,000 related to withholding tax.

Committee Recommendation

The OAG to keep the matter in view in future audit cycles.

5.0. Unsupported Subsistence Allowances

Note 6(a) to the financial statements included in the other operating expenses amounting to Kshs.141,844,983 in respect of subsistence allowances-domestic, subsistence allowance-Staff travel expense and subsistence allowances-International travel. However, the expenditure was not supported.

Management Response:

The expenditure totaling to Kshs 141,844,983 has been appropriately supported and documents are available in the company accounting system.

Committee Observation/Recommendation

The committee was satisfied with the management response provided and resolved the query.

6.0. Unaccounted for Grants

The Management did not provide documents to support how grants amounting to Kshs.3,407,118173 were accounted for. Further, review of the financial records revealed that the Nanyuki-Isiolo-Meru project was allocated an amount of Kshs.100,000,000 during the year under review but only amount of Kshs.59,429,226 was incurred. However, records provided for audit indicated that the project was completed in the year 2014.

Management Responses:

The Nanyuki-Isiolo-Meru is still ongoing however in 2014 the phase 1 had been completed see attached the current progress status report. The development grants 6,816,300,000 were distributed to the various projects as per the schedule.

Committee Observations

I. The management provided documents to support how the grants were distributed to the various projects. Further, they stated the Nanyuki-Isiolo-Meru project was ongoing that's was the reason funds were allocated. An incomplete section of 800metres was pending due to a dispute with the land tenant.

II. The Committee reprimanded the management of KETRACO for failure to complete the section despite having compensated the land owner. The management committed to ensure the project is completed by end of August 2025.

Committee Recommendations

The Committee directed the management to complete the 800m remaining section and submit the status report with photographic evidence to the Clerk's Office by 31st August 2025.

MIN.NO.NA/PIC-CA&E/2025/124: ADJOURNMENT

There being no other business, the meeting was adjourned at 13:05 pm. The next meeting will be held on notice.

Signature .....

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date..... 12/8/2025

MINUTES OF THE 31ST SITTING OF THE PUBLIC INVESTMENTS, COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY, 13TH AUGUST 2025 IN COMMITTEE ROOM 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

MEMBERS

Present

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. (Dr.) John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. (Dr.) Adan Keynan Wehliye, CBS, M.P
4. Hon. Festus Mwangi Kiunjuri, EGH, M.P
5. Hon. Sarah Paulata Korere, M.P
6. Hon. Esther Muthoni Passaris, M.P.
7. Hon. Paul Kahindi Katana, M.P
8. Hon. David Kiplagat M.P.

Apologies

1. Hon. Dr. Babu Owino Paul Ongili, M.P
2. Hon. Dr. Beatrice Adagala, M.P
3. Hon. Betty Njeri Maina, M.P
4. Hon. Charo Kazungu Tungule, M.P
5. Hon. Duncan Mathenge Maina, M.P
6. Hon. Ronald Kamwiko Karauri, M.P
7. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

National Assembly Secretariat

1.	Ms. Wanjiru Mwaura	-	Principal Clerk Assistant I
2.	Mr. Andrew Kipchumba	-	Clerk Assistant III
3.	Ms. Isabella Mwembi	-	Clerk Assistant III
4.	Dr. Benjamin Ngimor	-	Senior Fiscal Analyst
5.	Ms. Angela Musau	-	Legal Counsel II
6.	Mr. Brian Ojamaa	-	Media Relations Officer
7.	Ms. Lily Cherotich	-	Protocol Officer
8.	Ms. Lovin Wabwile	-	Audio Officer

Office of the Auditor-General

1.	Mr. Fredrick Oluoch	-	DDA
2.	Mr. Walter Owele	-	Principal Auditor
3.	Mr. Daniel Kuria	-	Liaison Officer

The National Treasury

Ms. Cherly Majiwa - DDI

Inspectorate of State Corporations

Mr. Daniel Wambua - Officer

Kenya Electricity Generating Company (KENGEN)

1. Eng. Peter Njenga - Managing Director
2. CPA Mary Maalu - GM Finance
3. CPA David Mwangi - Manager Finance
4. Ms. Monicah Karanja - Officer
5. CPA Erick Itudi - GM Internal Audit
6. Ms. Elizabeth Njenga - GM BDS
7. CPA Joshua Rangi - Internal Audit
8. Mr. Francis Kaloki - Property Manager
9. Ms. Rose Kanana - Ag. HRM
10. Mr. Simon Kirui - CEP

MIN. NO. NA/PIC-CA&E/2025/0145: PRELIMINARIES

The meeting was called to order at 10:22 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2025/0146: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholder to the meeting. He stated that two financial years were under review.

MIN.NO.NA/PIC-CA&E/2025/0147: CONFIRMATION OF MINUTES

Confirmation of the minutes of the previous sitting was deferred to the next meeting.

MIN.NO.NA/PIC-CA&E/2025/0148:MEETING WITH THE MANAGING DIRECTOR, KENYA ELECTRICITY GENERATING COMPANY TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2021/2022 AND FY 2022/2023.

The management of KENGEN, led by the Managing Director Eng. Peter Njenga appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2021/22 and FY 2022/23.

Non-Compliance with Recruitment Policies and Procedures

Review of human resource records indicated that the company had recruited a total of ten (10) employees during the financial year 2020/2021. Out of the ten newly recruited employees, four were graduate engineers, whose recruitment process was started in financial year 2020/2021. Review of the sourcing and selection process revealed that the shortlisted candidates were sourced from human resource database as opposed to job advertisement prescribed in the human resources policies and procedures. Further, a total of 28 graduate engineers were sourced in a similar manner in financial year under review.

Management Response

KenGen was contracted to carry out a drilling labour contract in Ethiopia and Djibouti, the contract demanded immediate mobilization of our staff to the project site. This required urgent recruitment of specialized engineers for the assignment. Due to the urgency of the exercise, management opted to shortlist candidates from its HR database to ensure there is no gap in executing operations within Drilling and Operations Departments.
In regard to the recruitment of four (4) graduate engineers, thirty-five candidates were interviewed for Electrical Engineer (12) and Mechanical Engineer (23). Out of the twelve (12) Electrical Engineers interviewed, four (4) were selected, similarly out of the twenty-three mechanical engineers interviewed, six (6) were selected as graduate Engineers. In regard to the recruitment of twenty-eight (28) graduate Engineers, ninety-five (95) candidates were interviewed. The composition was Electrical Engineer (50) and Mechanical Engineer (45). Out of the 50 Electrical Engineers interviewed, seventeen (17) were selected, similarly out of the forty five (45) mechanical interviewed, eleven (11) were selected as Graduate Engineers. As per the internal policy and procedure document.

Committee Observations

I. The Office of the Auditor-General (OAG) informed the Committee that although KENGEN had adhered to its internal human resource policies and procedures, it did not comply with Article 232(i) of the Constitution, which requires affording equal opportunities to all Kenyans.
II. The Committee observed that the management of KENGEN had not adequately addressed the audit query, as key documents necessary to guide the Committee in prosecuting the matter had not been provided.
III. The Committee sought clarification on how KENGEN was identified, the nature and terms of the contract entered into between KENGEN and the Djibouti Company, and the number of staff deployed to undertake the assignment.

Committee Recommendation

The Management of KENGEN was directed to submit the following documents at the next meeting with the Committee:

(i.) The contract between KENGEN and the Djibouti Company that necessitated the deployment of staff to work in that country.

(ii.) A list of the thirty-eight (38) recruited staff, including details on their composition, the counties of origin, and the terms of their employment.

(iii.) The names of the Managing Director, members of the Human Resource Committee, the Chairperson of the Board, and Board Members who were in office at the time the recruitment was conducted.

MIN.NO.NA/PIC-CA&E/2025/0149: ADJOURNMENT

There being no other business, the meeting was adjourned at 11:28 am. The next meeting will be held on Thursday 14th August, 2025 at 10:00 a.m.

Signed:

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HON. DAVID PKOSING, CBS, M.P.
Chairperson

Date: 18/9/2025

MINUTES OF THE 32ND SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON THURSDAY, 14TH JULY 2025 ON 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Dr. John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. Sarah Paulata Korere, M.P
4. Hon. Esther Muthoni Passaris, M.P.
5. Hon. Paul Kahindi Katana, M.P
6. Hon. David Kiplagat M.P.

APOLOGIES

1. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P
3. Hon. Dr. Babu Owino Paul Ongili, M.P
4. Hon. Dr. Beatrice Adagala, M.P
5. Hon. Betty Njeri Maina, M.P
6. Hon. Charo Kazungu Tungule, M.P
7. Hon. Duncan Mathenge Maina, M.P
8. Hon. Ronald Kamwiko Karauri, M.P
9. Hon. Yusuf Mohamed Farah, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Ms. Wanjiru Mwaura	-	Principal Clerk Assistant I
2.	Mr. Andrew Kipchumba	-	Clerk Assistant III
3.	Ms. Angela Musau	-	Legal Counsel II
4.	Mr. Brian Njeru	-	Fiscal Analyst II
5.	Mr. Timoty Chiko	-	Research Officer III
6.	Mr. Amos Tindi	-	Hansard Reporter II
7.	Mr. Brian Ojaamong	-	Media Relations Officer
8.	Ms. Roselyne Ndegi	-	Serjeant-At-Arms
9.	Ms. Mercyline Kerubo	-	Audio Officer

OFFICE OF THE AUDITOR GENERAL

1.	Mr Daniel Kuria	–	Principal Auditor
2.	Mr Fredrick Omondi	–	DDA
3.	Mr Walter Were	–	Principal Auditor

KENYA ELECTRICITY TRANSMISSION COMPANY (KETRACO)

1.	Eng. (Dr) John Mativo	–	MD/CEO
2.	Mr Tom Imbo	–	GM, FINANCE
3.	Mr Anthony Wamukota	–	GM, B&C
4.	Ms Florence Mitey	–	CS & GM, LEGAL

5.	Ms Mildred Mwihaki	–	FINANCE
6.	Ms Caroiline Kiara	–	Ag. SSCM
7.	Mr Kibias Kipkemoi	–	GM, SOPM
8.	Mr Jackson Hachara	–	FINANCE
9.	Mr Phaneul Muchende	–	FINANCE

MIN. NO. NA/PIC-CA&E/2025/142: PRELIMINARIES

The meeting was called to order at 10:20 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2025/143: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholders to the meeting. He stated that the Committee would examine the audited accounts of KETRACO for the FY 2018/2019 to FY 2022/2023.

MIN.NO.NA/PIC-CA&E/2025/144: CONFIRMATION OF MINUTES

This agenda item was deferred the next meeting.

MIN.NO.NA/PIC-CA&E/2025/145: MEETING WITH THE CHIEF EXECUTIVE OFFICER, KENYA ELECTRICTY TRANSMISSION COMPANY (KETRACO) TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2018/2019 to FY 2022/2023

The management of KETRACO, led by the Managing Director, Eng. (Dr) John Mativo appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2018/2019 to FY 2022/23.

FINANCIAL YEAR 2018/2019

7.0. Unsupported Expenditure

The financial statements which discloses that the Company's estimated contingent liabilities consist of ongoing court cases relating to acquisition of way-leaves and contractors' claims beyond the original contract period, amounting to Kshs.12,967,306,000. However, in the event that these contingent liabilities crystallize, the Company may be exposed to unforeseen project cost overruns, resulting to inability to meet its obligations when they fall due.

Management Responses:

The Project was completed in September 2018, operational certificate (Annex 18) and Take Over certificate (Annex 18.1) issued to the contractors of the Transmission Line, Consortium of NARI Group Corporation and Power China Guizhou Engineering Company Limited. The amount of Kshs 701,416,727 relates to payment of pending bills which was partly settled. (Annex 18.2)

Committee Observation

The Committee was informed that the operation certification and Take over certificates have been provided hence the validity of the expenditure of Kshs. 701, 416,727 for transmission lines can now be confirmed.

Committee Recommendation

The matter stands resolved.

8.0. Pending Way-leave Compensations

Review of way-leave compensations revealed that the Company had outstanding compensation to landowners for way-leaves amounting to Kshs.2,724,649,715. However, Management explained that delayed payment was due to insufficient budgetary allocation from The National Treasury and long negotiations between land owners, the Company and various County Governments. Delays in compensating Project Affected Persons, (PAPs) may lead to legal suits, cost escalations and project delays.

Further, it was noted that the way-leave compensation balance includes debit balances of Kshs.11,940,000 which has been occasioned by a mismatch of invoices against the corresponding payable balance. Management indicates that the matching is an ongoing process but does not indicate the controls put in place to ensure that the errors are eradicated in future. In the circumstances, the accuracy and completeness of the pending way-leave compensations could not be confirmed.

Management Comments:

The amount Kshs.11,940,000 as debit balance in wayleave have since been matched. Currently management ensures proper internal reviews are carried out to ensure invoices are matched with corresponding payables.

Long outstanding wayleave balances are occasioned by:

a. Insufficient budget allocation,

b. Incomplete documentation and disputes on the Payee, and

c. In some cases, this involves litigation which takes a longer time to resolve.

The company continues to received exchequer support from the Government of Kenya to facilitate payment of pending way-leave , Payment of outstanding way-leaves is based on available budget. The company is collaborating with other government agencies to resolve disputes relating to way leave compensation. Way-leave balance as at June 2025 has reduced to Kshs. 1,471,498,660.81 . (Annex 19).

Committee Observation

I. The Committee observed that the matter of way-leave compensation was a recurrent issue and KETRACO should take necessary steps to address this as it was causing unnecessary loses to the company.
II. The Committee was informed that cheques issued to beneficiaries for compensation bounced due to inactive bank accounts, and that at the time of audit, mismatch had not been done. Later in subsequent years, the mismatch was corrected. However, the Committee recommended that evidence of the unmatched Kshs.11,940,000 should have been provided.
III. The committee was informed that way-leaves compensation has been partly done and the balance reduced.

Committee Recommendation

The matter stands resolved.

Emphasis of Matter

9.0 Provisions and Contingent Liabilities

Company's estimated contingent liabilities consist of ongoing court cases relating to acquisition of way-leaves and contractors' claims beyond the original contract period, amounting to Kshs.6,723,093,000. According to Management, the status of these exposures is evaluated on a regular basis to assess the probability of incurring related liabilities. However, in the event that these contingent liabilities crystallize, the Company may be exposed to unforeseen project cost overruns, resulting to inability to meet its obligations when they fall due. This may affect service delivery capacity of the Company.

Management Comments:

Provisions and contingent liabilities are continuously updated by management to assess basis of crystallizing. Provisions and contingent liabilities are continuously updated by management to assess basis of crystallizing.

The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Ksh. 102,165,144.20. (Annex 20). However, KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. . The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding The High Court ruling.The Court of appeal ruling was subjected to an appeal petition at The Supreme Court . The Supreme Court delivered their ruling upholding the The Court of appeal ruling. (Annex 21).

In the meantime, the Company requested The National Treasury through Ministry of Energy for the financing of the project on 20th August 2020 which has not been responded to. (Annex 22).

Committee Observation

I. The Committee was informed that the KETRACO had written to National treasury regarding settlement of these claims and that a Multi-sectoral Committee has been put in place to work in compensation settlement agreement within thirty (30) days and once the agreement is ready it will be tabled before the Committee.
II. The Committee raised concern on whether the Company has a policy in place guiding it on provisions and contingent liability so that interests due to delayed settlements don't keep on extrapolating to which KETRACO responded in affirmative.
III. The Committee also raised concern on the nature and conduct of the law firm handling its legal cases raising concern over rising number of cases the Company has lost and the costs going towards settling legal fees and compensations.
IV. The Committee also took note that the Company was awarding contracts without due diligence leading to premature termination of such contracts which end up in court for damage compensations from innocent tax payers money.

Committee Recommendation

i. The Committee recommended that the individuals who took part in awarding of the terminated contracts, take personal responsibilities for the damages incurred instead of the Company.
ii. The Committee also recommended that the agreement be submitted to the a committee by 23rd September 2025 and a follow-up meeting thereafter.
iii. The Committee further recommended that KETRACO should not award any contracts without way-leave.
iv. The matter stands unresolved awaiting the Settlement Agreement from the Mult-Sectoral Committee set up by the National Treasury.

10.0. Material Uncertainty Relating to Going Concern

Company's current liabilities balance of Kshs.27,479,514,000 exceeded current assets balance of Kshs.21,655,789,000 by an amount of Kshs.5,823,725,000.

In view of the negative working capital, the Company may not be in a position to meet its short-term maturing obligations, thereby exposing it to going concern risks.

Management Comments:

The company's liabilities are largely funded by Government grants which arise from project implementation. The company current liabilities consist of contractual payments payable through direct payment mode where contractor receives funds directly from the financier. Therefore, the obligations are matched with commitments under the finance agreements. In addition the company has made full disclosure of the going concern status in accordance with as disclosed in Note 33 of the financial statements.

Committee Observation

I. The Committee was informed that KETRACO together with the Ministry of Energy and National Treasury were in consultations t o see ways they can mitigate themselves against garnishing.

II. The Committee observed that the matter was taking too long to be resolved resulting in accrued interests which further add up to the company's liabilities.

Committee Recommendation

The matter remains unresolved and OAG to keep it in view in future audit cycle

11.0. Court Award on Terminated Contract

During the year under audit, an arbitration case between the Company and a contractor for the termination of contract for the construction of 132KM of 400KV double circuit transmission line from Lessos substation in Kenya to Tororo substation in Uganda has remained unresolved since April 2016. The tribunal issued an award in favour of the contractor on 30 July 2019 amounting to Euro 37,365,691 or approximately Kshs.4.5 Billion, which included termination costs, legal cost and other claims amounting to Kshs.2,223,137,553. Management considered the decision to be against public interest and sought assistance from Attorney General's office in setting aside the Tribunal's award. However, the award was upheld by the High Court of Kenya on 16 February 2020.

Further, it was not possible to confirm whether the project would be completed in the near future, and the additional costs which would be necessary to complete the project, or the losses which the Government of Kenya would suffer in the event that the project is not completed.

In the circumstances, the award has resulted to unforeseen legal and arbitration costs, termination charges, and other claims.

Management Comments:

The contracts with the main contractor (Inabensa) for the project were terminated in April 2016 due to non-performance.

The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Ksh. 102,165,144.20. (Annex 20) However, KETRACO appealed to the High Court for setting aside of the arbitral award to Inabensa. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding The High Court ruling. The Court of appeal ruling was subjected to an appeal petition at The Supreme Court . The Supreme Court delivered their ruling upholding the The Court of appeal ruling. (Annex 21).

In the meantime, the Company requested The National Treasury through Ministry of Energy for the financing of the project on 20th August 2020 which has not been responded to. (Annex 22).

Committee Observations

I. The Committee observed that currently KETRACO has been awarding contracts without way-leaves or conducting due diligence which leads to termination of such contracts making Kenyans incur unnecessary loses as a result of litigation fees and awarding of damage compensations by courts.

II. The Committee was informed that the company that was awarded the contract went under receivership and another company bought up the loans.

Committee Recommendation

i. The Committee resolved to undertake an inspection visit to Inabensa project in nandi-Kakamega County to evaluate the state of the project and that of the equipment on site

ii. The Committee recommends that KETRACO explores options on finishing the project via the compensation claim, current contract should finish the project.

iii. The Committee recommends that the Committee's legal team should analyze the judgement delivered regarding the Inabensa, the contract and the contents of the court case and brief the Committee determination.

iv. The Committee recommends that Managements provides the Committee with certificate of incorporation when awarding the contract as well as procurement details, minutes of the termination of this contract and arbitration presentations and party decisions in its next meeting.

v. The committee strongly recommends that before settlement agreement is reached, legality of the procurement process should be determined to avoid using tax payers money to pay for mistakes made by individuals.

vi. The Committee recommended that the individuals who took part in awarding of the terminated contracts, take personal responsibilities for the damages incurred instead of the Company.

vii. The Committee further recommends that OAG to keep the matter in view in future audit cycles.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESURCES

12.0 Construction of Loyangalani - Suswa Transmission Interconnector Line

In the special audit concluded in April 2021 a number of issues were raised in the procurement and execution of the above contract as indicated below:

i) Management did not undertake both technical and financial due diligence as provided under Section 68(1) PPDA Act 2015 leading to irregular payment of Kshs.10,827,072 to a Contractor which subsequently filed a petition for bankruptcy.

ii) After bankruptcy of the original Contractor, Management engaged yet another Contractor. However, the procurement was not included in the annual procurement plan and valuation of the pending works for the purposes of preparing the bills of quantities

was not provided for audit.

iii) Engagement of subcontractors at a cost of Kshs.1,524,059,296 which was not accompanied with certificates of completion.

iv) Acquisition of materials from the subcontractors at a cost of Kshs.26,220.329 without a valuation report and subsequently taking them on charge.

In the circumstances, Management was in breach of law and value for money could not be confirmed.

Management Responses

The Project was completed in September 2018, a operational certificate (Annex 23) and Take Over certificate (Annex 24) issued to the contractors of the Transmission Line, Consortium of NARI Group Corporation and Power China Guizhou Engineering Company Limited and contractor of the Loiyangalani Substation, SIEMENS SAS France. The contractor was tied to the financing, though procurement process of the contractor was done by KPLC and Ministry of Energy, KETRACO had conducted due diligence and satisfied itself of the financial and technical ability of the contractor before they suffered the insolvency in August 2017. The National treasury gave the go ahead to KETRACO to deploy the permitted method of procurement after the initial contractor suffered insolvency (Annex 24.1)

Committee Observation

The Committee was informed that the contractor for the project was procured by KPLC, at the time when KETRACO had not been constituted. That materials used for the project were acquired through a clearing and forwarding agent to which KETRACO paid for supplies on pending certificate of outgoing contractor.

The Committee observed that the project was finally completed

Committee Recommendation

The matter stands resolved.

MIN.NO.NA/PIC-CA&E/2025/146: ADJOURNMENT

There being no other business, the meeting was adjourned at 13:05 pm. The next meeting will be held on notice.

Signature .....

HON. DAVID PKOSING, CBS, M.P.
(CHAIRPERSON)

Date.....18/9/2025.....

MINUTES OF THE 39TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON TUESDAY, 14TH OCTOBER 2025 ON 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

MEMBERS

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Dr. John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. Festus Mwangi Kiunjuri, EGH, M.P
4. Hon. David Kiplagat M.P.
5. Hon. Esther Muthoni Passaris, M.P.
6. Hon. Duncan Mathenge Maina, M.P
7. Hon. Yusuf Mohamed Farah, M.P

APOLOGIES

1. Hon. Sarah Paulata Korere, M.P
2. Hon. Dr. Babu Owino Paul Ongili, M.P
3. Hon. Dr. Beatrice Adagala, M.P
4. Hon. Paul Kahindi Katana, M.P
5. Hon. Charo Kazungu Tungule, M.P
6. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
7. Hon. Betty Njeri Maina, M.P
8. Hon. Ronald Kamwiko Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Ms. Wanjiru Mwaura	-	Principal Clerk Assistant I
2.	Mr. Andrew Kipchumba	-	Clerk Assistant III
3.	Ms. Isabella Mwembi	-	Clerk Assistant III
4.	Ms. Angela Musau	-	Legal Counsel II
5.	Ms. Judith Kiprop	-	Fiscal Analyst II
6.	Mr. Timoty Chiko	-	Research Officer III
7.	Mr. Amos Tindi	-	Hansard Reporter II
8.	Mr. Brian Ojaamong	-	Media Relations Officer
9.	Ms. Roselyne Ndegi	-	Serjeant-At-Arms
10.	Ms. Mercyline Kerubo	-	Audio Officer

OFFICE OF THE AUDITOR GENERAL

1.	Mr Daniel Kuria	–	OAG Liaison Officer
2.	Mr Jared Nyasani	–	OAG Deputy Director

KENYA POWER AND LIGHTING COMPANY(KPLC)

1.	Eng. (Dr) Joseph Sir	–	MD & CEO, KPLC
2.	Mr. Alex Mwaniki	–	Ag. General ManagerFinance
3.	Eng. Kennedy Owino	_	General Manager, Infrastructure Development
4.	Dr. John Ng'eno	_	General Manager, Supply Chain & Logistics

5. Ms. Imelda Bore – Legal, Regulatory Affairs and Company Secretary
6. Ms. Judy Gituma – Senior Accountant
7. Mr Henry Githaige – Corporate Communications Officer
8. Mr. Dalton Lagat – Commercial Services and Sales Officer
9. Mr. Robert Kariuki – Commercial Services and Sales Officer
10. Mr. Cynthia Siele – Human resource and Administration

MIN. NO. NA/PIC-CA&E/2025/188: PRELIMINARIES

The meeting was called to order at 10:23 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2025/189: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholders to the meeting. He stated the Committee would examine the audited accounts of Kenya Power and Lighting Company (KPLC) for the FY 2018/2019 to FY 2021/2022.

MIN.NO.NA/PIC-CA&E/2025/190: CONFIRMATION OF MINUTES

This agenda item was deferred to the next meeting.

MIN.NO.NA/PIC-CA&E/2025/191: MEETING WITH THE CHIEF EXECUTIVE OFFICER, KENYA POWER AND LIGHTING COMPANY (KPLC) TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2018/2019 TO FY 2022/2023

The management of KPLC, led by the Managing Director Eng. (Dr) Joseph Siror, appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2018/2019 to FY 2021/2022.

FINANCIAL YEAR 2021/2022

1.0 GOK Support for 15% Tariff Reduction

During the year under review, a Presidential directive was issued on implementation of 15% tariff reduction for all customer categories which was effected through Gazette Notice No. 64 dated 7 January, 2022. Arising from the Presidential directive, the National Government disbursed a total of Kshs.7,050,000,000 to the Company to support the tariff reduction. According to the framework agreed between the Ministry of Energy and Semi-Autonomous Agencies (SAGAs) in the electricity sub-sector, the SAGAs in the electricity supply chain comprising The Kenya Power and Lighting Company PLC (KPLC), the Kenya Electricity Generation Company PLC (KenGen), the Kenya Electricity Transmission Company Limited (KETRACO), and the Geothermal Development Company Limited (GDC), were to contribute through cost reduction initiatives to supplement Government Support.

KPLC implemented the tariff reduction from January, 2022 but the other Agencies did not implement the cost reduction measures as per respective commitments which was estimated to translate to Kshs.2,173,000,000.

Consequently, the Company did not realize full revenue support occasioned by the 15% tariff reduction directive.

Committee Observation

The Committee t observed that the company has attached relevant evidence to show that they complied with the directive.

Committee Recommendation

The matter stands resolved.

2.0. Irregular Hire of Generator for Mandera and Lodwar Power stations

The Management contracted a rental company to supply on hire, 2 megawatts (MW) and 2.5MW capacity generators for power generation in Mandera and Lodwar power stations through six contracts spread between August, 2020 to September, 2022 at a cost of Kshs.185,311,161 through direct procurement.

Review of the procurement process and contract documents revealed the following anomalies:

i. Management cited Section 103(2)(d) of the Public Procurement and Asset Disposal Act, 2015 as the justification for direct procurement. However, the justification was not appropriate since no standardization and compatibility was needed as the same services could be sought from other providers.
ii. The method of procurement of the services was indicated as through open tender in the approved procurement plans for the financial year 2019/2020 and 2020/2021 as required by Section 53 (10) of the Public Procurement and Asset Disposal Act, 2015. The use of direct procurement method is therefore in violation of the Act.
iii. Hire of the generators has been the prevalent at the Company. However, a cost benefit analysis between hiring and buying of generators conducted by Management in 2019/2020 financial year concluded that purchasing own generators was beneficial. Despite the recommendation, the Management continued to hire generators after the survey, thus negating the value for money for expenditure spent to hire the generators.
iv. The supplier was engaged to provide generator hire services in Lodwar and Mandera stations at a cost of Kshs.14,227,895 and Kshs.11,036,760 for the service period between 25 November, 2020 to 25 February, 2021 and 19 December, 2020 to 18 February, 2021 respectively without signed contracts contrary to Section 135 of the Public Procurement and Asset Disposal Act, 2015. Further, the supplier continued to provide services in respect of six contracts before the procurement process was completed and contracts entered into with successful tenderer which is irregular.
v. The Evaluation Committee in its report dated 7 January, 2021 indicated that the supplier's bids for the service period between 25 November, 2020 to 25 February, 2021 and 19 December, 2020 to 18 February, 2021 at a cost of Kshs.14,227,895 and Kshs.11,036,760 respectively, were not responsive in the preliminary evaluation due to failure to submit audited financial statements for the last 18 months. In addition, the technical evaluation report indicated that the bidder did not submit details of services statement in accordance with section XXI part B of the tender documents. Although the Evaluation Committee noted

the non-responsiveness to tender, it recommended the award of tenders and negotiated with the bidder to bring the documents later which was contrary to the Regulations. Further there was no support evidence that the contractor provided the documents. Therefore, the award of the two contracts were irregular and contrary to Regulation 75(1) of the Public Procurement and Asset Disposal Regulation, 2020.

vi. The evaluation report indicated that the supplier quoted a price of Kshs.10,846,470 for hire of generators to Mandera Substation for service period between 19 December, 2020 to 18 February, 2021. However, the Evaluation Committee made correction to the quoted price to Kshs.11,036,759 on grounds that the bidder's price schedule computed VAT at 14% while the prevailing VAT rate was 16%. This correction was contrary to Section 82 of the Public Procurement and Asset Disposal Act, 2015.

Management Response

The Managing Director Responded as Follows;

I. Power supply at Mandera and Lodwar Power stations is provided by contracted generators using diesel. These areas are outside the National grid. The generation is contracted to a third party provider with funding from the Ministry of Energy (MoE). They are high security risk areas that can't do without power at any one given time.

II. Upon receipt of funding from MoE, KPLC floated Open tenders under tender no: KP1/9A.1A/OT/018/18-19 and KP1/9A.1A/OT/019/18-19 for hiring of 2000 Kw generator capacity for Lodwar and Mandera power station respectively.

III. M/s Aggreko Kenya Energy Rentals Ltd was the lowest evaluated and was awarded contract for one-year period from 25th May 2019 to 24th April 2020 for Lodwar and 20th June 2019 to 19th June 2020 for Mandera.

IV. Before expiry of the contract, KPLC requested MoE for additional funds for hiring of the generators for another one year as the Ministry looked at grid extension or any other long-term power solution to the area. The approval was granted, however, it was only for 6 months to enable KPLC do a cost benefit analysis between hiring and procuring new generators. After the contract variation, MoE did not provide sufficient funds to allow for an open tender.

V. It was not possible to vary the contracts for a period of six months as the law only allowed variation of contract to a maximum of 25% of the original contract price as per section 139 (3) (e) Public Procurement and Asset Disposal Act 2015 (PPADA). Therefore, KPLC did contract variation no 1 for the two stations for a period of 2 & 2.5 months respectively.

VI. As a result of the above and need to keep the two stations operational KPLC did Direct tender No. KP1/9A.1A/DT/010/19-20 and KP1/9A.1A/DT/011/19-20 for the remaining period of 3.5 and 4 months in compliance with section 139 (3) (e) PPADA 2015. This is because Aggreko Kenya Energy Rentals Ltd were already on site and considering the need for standardization of the service, reasonableness of price, and unsuitability of alternatives hence the choice of direct method of procurement was justified.

Committee Observation

i. The committee observed that the management response was not well structured and did not fully address the raised audit queries.

ii. The Committee also raised concern in the manner in which KPLC sought for Direct procurement without exhausting all legal options after the court order was issued stopping the open tendering.

iii. The Committee further raised concern on the criteria used when varying the cost

Committee Recommendation

i. The Committee recommended that KPLC retreats and comes up with well detailed and structured response that fully addresses the audit query raised by OAG report.
ii. The OAG to keep the matter in view in the next Committee Meeting.

3.0. Irregular Procurement of Insurance Services

During the year under review, the Management procured provision of various insurance services through restricted tender method. Review of the procurement process and documentation revealed the following anomalies.

i. The Management did not maintain a list of prequalified suppliers for Insurance brokers or providers of insurance services. Subsequently, the Management invited nine (9) tenderers contrary to Section 89 (5) of the Public Procurement and Asset Disposal Regulations, 2020 which requires the procuring entity to invite tenders from at least ten (10) persons selected from the list maintained as provided for under Sections 57 and 71 of the Act. As a result, the procurement process for the nine (9) insurance policies was done irregularly.
ii. An existing insurance services provider continued to provide services from 1 September, 2021 to 30 June, 2022 despite the procurement process having concluded on 19 January, 2022 when the professional opinion and the contract subsequently signed on 15 March, 2022.
iii. The use of direct procurement method and subsequent award to seven (7) insurance brokers and underwriters was irregular as justification used was not among those outlined under Section 103 of the Public Procurement and Asset Disposal Act, 2015. Management had indicated that direct procurement was used because the contract for the services had exhausted the maximum variation threshold of 25% thus a further extension would have not been tenable under the set regulations and the Act.
iv. The insurance brokers and underwriters continued to provide insurance services from 1 March, 2022 to 30 June, 2022 after conclusion of the procurement process as professional opinions were signed in March, 2022 and contract entered into on June, 2022.
v. The budget for insurance services as per the approved budget and approved procurement plan was Kshs.760,000,000. However, the Company incurred expenditure of Kshs.810,593,434 resulting in unexplained over expenditure of Kshs.50,593,434 or 7% of approved budget.

Management Response

The Managing Director Responded as Follows;

i. The use of direct procurement was justified and approved pursuant to Section 103 (2) (b) and (d) of the PPADA noting that there was a court injunction filed under petition No. E307 of 2021 that suspended the open tender for prequalification of insurance service providers. The company had to ensure that its resources and public interests are

safeguarded despite the existence of a court order suspending open tendering, noting that the existing contracts were set to expire on 28.02.2022. Consequently, a legal opinion was sought and given internally on 03.02.2022 which informed the decision to use direct method procurement to the existing seven (7) insurance brokers for twenty-seven (27) policies that were expiring on 28.02.2022. The twenty-seven (27) policies procured included crucial insurances for the business and critical power installations e.g. Sub-stations, Company Fleet insurance which is compulsory under the Traffic Act. Lack of vehicle insurance for the fleet would paralyze operations. These policies together with Group life /Work Injury Benefits act 2007, lack of which would expose staff and KPLC to legal liability. Nature of Kenya Power operations are in the Public's Interest and Safety.

ii. All the notification of awards were issued per contract award after approval of the professional opinion to the service providers on various dates in March 2022.

iii. As per Cap 487 Chapter 156 (1) the insurers undertook to pay claims, after payment of the premium to avert liability that may arise before contract signing for critical insurance covers. However, the delay in contracting was occasioned by unavoidable circumstances including the court injunction and lack of adequate capacity in the procurement department after Procurement professionals were suspended occasioned by a Presidential Task force report.

iv. In the year 2021, Reinsurance Companies operating in the East African market significantly altered the rates under their treaties for Fire and Motor policies. Subsequently the Company was unable to place the Fire Sub-Station polices and Fire Consequential loss policies as well as Public Liability (& Products liability) Insurance. The Company had opted for self-insurance due to lack of finances, as a result of which the matter was raised in Parliament.

v. The Company was compelled under public interest, to reallocate funds and issue a supplementary procurement plan to meet the increased reinsurance rates, leading to the over expenditure.

Committee Observation

The committee observed that the management response was not well structured and did not fully address the raised audit queries.

Committee Recommendation

The Committee recommended that KPLC retreats and comes up with well detailed and structured response that fully addresses the audit query raised by OAG report.

4.0. Irregular Procurement of Consultancy Services

The Company engaged a foreign consultant through a contract dated 16 March, 2022 for provision of legal services of review and renegotiation of power purchase agreements at a cost of Kshs.114,000,000. Review of the procurement process revealed the following anomalies:

i. As part of the mandatory requirements, bidders were required to submit a duly filled, signed, and stamped self-declaration form indicating that the tenderer is not debarred, a confidential business questionnaire, declaration of no conflict of interest and a self-declaration form indicating that they will not engage in any corrupt or fraudulent practice. However, evaluation score sheets by the evaluation committee and the

evaluation report dated 23 December, 2021 indicated that the winning bidder's self-declaration forms, confidential business questionnaire, declaration of no conflict of interest were not duly stamped as required in the evaluation criteria. This implies that the tenderer was non-responsive and ought not to have progressed to technical and financial evaluation.

ii. The Cabinet Secretary to The National Treasury who had initiated the process required the Company to engage a consultant through a competitive procedure which would involve identification of reliable candidates with suitable track records and who had previously or are currently providing services to the Government. However, no documentary evidence was provided to indicate how the three consultants invited to bid were identified.

iii. The Evaluation Committee in its evaluation report dated 24 December, 2022 indicated that the tender documents submitted by the winning bidder through an online platform could not be accessed using the Company portal. The Head of Procurement requested the bidder to resend the documents through email to the Evaluation Committee secretary. Despite the Secretary to the Evaluation Committee not agreeing to re-submission as it was contrary to Regulation 57 of the Public Procurement and Asset Disposal Regulations, 2020, the Committee went ahead and evaluated the resubmitted tender documents and eventually awarded the tender to the bidder

iv. Tender negotiation was done by a different Evaluation Committee from the one which had evaluated the tender contrary to Section 46(4)(d) of the Public Procurement and Asset Disposal Act, 2015 which requires an Evaluation Committee to complete the procurement process for which it was appointed, and no new Committee shall be appointed on the same issue unless the one handling the issue has been procedurally disbanded.

v. Examination of the bid documents, contracts and other documents provided for verification revealed that the Management did not require the consultants to provide performance security contrary to Section 142(1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

Management Response

The Managing Director Responded as Follows;

I. Pursuant to Section 79 of Public Procurement and Asset Disposal Act (2)(a) the Evaluation committee noted that stamping of the bid documents was a minor deviation that did not materially depart from the requirements set out in the tender documents. This was noted in section 5.2.1 of the Evaluation report.

II. The procurement was as a result of the Presidential Taskforce report which required review and renegotiation of the Power Purchase Agreements between KPLC and Independent Power Producers (IPPs) for the purpose of reduction of the power tariffs. KPLC identified through Specially Permitted Procurement three reputable legal experts who had previous experience with the Government and approval was given on 02.11.2021 by the National Treasury for use of Specially Permitted Procurement method due to the complexity of the procurement and strict timelines given to have the Taskforce report implemented. The National Treasury approval to use the specially permitted procurement. The requirement in the tender was for an indemnity cover for GBP 10,000,000.

Committee Observation

The committee observed that the management response was not well structured and did not fully address the raised audit queries.

Committee Recommendation

The Committee recommended that KPLC retreats and comes up with well detailed and structured response that fully addresses the audit query raised by OAG report.

5.0 Power Losses in the System

The financial statements in Note 7(a) reflects electricity sales of Kshs.107,206,265,000 and Kshs.19,666,579,000 in respect of postpaid and prepaid electricity sales respectively. Review of units of electricity purchased against units sold revealed a total of 12,653GWh purchased from power producers out of which, 9,814GWh were sold to customers resulting in an efficiency loss of 2,839GWh or 22.44% which translates to approximately Kshs.31,206,288,000 using the average sale price for the 9,814GWh sold.

The industry regulator, the Energy and Petroleum Regulatory Authority (EPRA), approved for the Company to recover from consumers system losses of up to 19.9% (approximately Kshs.21,077,217,000) that is deemed to be normal loss. The excess of 2.43% above the allowed loss (232.53-19.9) translates to a loss of approximately Kshs.2.57 billion had the same energy been sold to the consumers. The loss variance of 23.95% was attributed to systems inefficiencies arising from commercial or technical operations. These losses contribute to high power charges to the consumers since the industry regulator allows the Company to charge up to 19.9% of the power loses to consumers.

The difference or excess of 4.05% power loss above the approved recovery rate of 19.9% constitutes inefficiency power loss whose cost is not passed on to the consumers and therefore increases the operating costs of the Company.

Management Response

The Managing Director Responded as Follows;

The system losses remained high partially due to the expansion of the grid at low voltage in support of the government initiative of accelerated connectivity program including Lastmile.

The main strategic initiatives implemented during the period to mitigate against these losses were;

i. Infrastructure reinforcements to support the last-mile connectivity programs and expand capacity. This involved the establishment of primary substations, and medium voltage distribution lines to act as the backbone support for the connectivity projects.
ii. Implementation of a metering program focused on having all the industrial customers and SMEs on smart meters.
iii. Scaling up of the field campaign dubbed the 'War on Losses' focusing on prepaid non-vending issues (i.e non-vends and zero vends) and billing issues (i.e quality of meter readings) besides scheduled inspections of SMEs and large power.
iv. Installation of energy accounting meters at KPLC regional boundaries. This was to complement the feeder meters that existed. Energy accounting w support focused interventions and loss reduction activities.
v. Progression of ongoing data clean up campaigns to completion.

vi. The ministry of Energy and petroleum should implement the recommendations of the Report of the task Force on Power Purchasing Agreement (more clarification on this)

Committee Observation

i. The Committee observed that the problem of power loss is still in existence and largely contributed to by the distance of the source of power and consumers due to the quality of transmission lines.

ii. The Committee was informed that there are a number of KETRACCO projects that were started with the aim of reducing power loss but the projects have since stalled due to under-funding to KETRACO and they are;

   a. Nanyuki-Isiolo substation
   b. Lumurut-Nanyuki substation
   c. Lesos substation
   d. Narok-Bomet substation

iii. The Committee was also informed that use of high voltage transmission lines instead of the current medium voltage could reduce power lose by a great margin.

iv. The Committee was also observed that there is need to come with new substations like Mariakani substation and Gilgil substation to ease pressure on the Suswa main power station by reducing the distance to the consumers hence reducing power lose.

v. The Committee was further informed that Sondu-Homabay substation was complete but hasn't been sensationalized by the Ministry due to some existing structures along the transmission line that were yet to be resolved.

Committee Recommendation

The Managing Director Responded as Follows;

i. The Ministry of Energy should put all necessary measures to replace all medium voltage transmission lines with high voltage transmission lines to minimize on power losses in the system.
ii. The Ministry of Energy and petroleum should fast track the completion of the following stalled projects aimed at reducing power loses in the system;
   e. Nanyuki-Isiolo substation
   f. Lumurut-Nanyuki substation
   g. Lesos substation
   h. Narok-Bomet substation
iii. The committee further recommended that the Ministry of Energy and Petroleum must move with speed to resolve the dispute delaying the operationalization of Sondu-Homa Bay substation which is already complete.
iv. The Ministry should further consider setting up new substations in Mariakani and Gilgil to reduce power lose and improve quality of power to consumers.
v. The Committee also resolved to convene a round-table meeting with the Cabinet Secretary, Ministry of Energy and Petroleum and the Cabinet Secretary, The National Treasury to deliberate on policy framework to mitigate system power lose.

6.0 Failure to Observe Guidelines on Board of Directors Meetings

During the year under review, the Board of Directors had in its approved calendar a total of thirty-three (33) full Board and Committee meetings which exceeded a maximum number of six (6) recommended by the Office of the President Circular referenced OP/CAB.9/1A dated 11 March, 2020. Additionally, during the year under review, the Board held a total of eighty-nine (89) Committee meetings comprising forty-five (45) full Board meetings and forty-four (44) Committees' meetings, translating to a Board meeting every four days thus making the Board becoming operational in nature.

Further, review of the requests made to the Cabinet Secretary for extra meetings revealed only the extra meetings in the Board calendar were forwarded for approval. In addition, the requests did not have the justification, source of funds and budget implications as required in the circular. Further, six (6) of the requests for extra meetings, were approved by the Principal Secretary who is a Member of the Board Member instead of the Cabinet Secretary.

Management Response

The Managing Director Responded as Follows;

The enhanced number of meetings were informed by the government driven reforms in the sector and specifically on the company, this included the Board engagements with the Presidential Taskforce on review of PPAs.

Committee Observations

The Committee observed that there are a total of fifty six (56) board meetings that were convened without the approval of the Cabinet Secretary without following down laid down procedures.

Committee Recommendation

The Committee recommended as follows; THAT-

i. Management should ascertain whether the fifty six illegal meetings resulted to any positive outcome to the Members of the Public.
i. Management should also provide the committee with details of the illegal meetings by stating the agenda, the Board Members whom attended and how much each was paid for accountability.
ii. The Committee to be appraised with this response in their next meeting with the Company.

14.0 Lack of Annual Governance Audit

Review of records at the Company relating to Board activities revealed no evidence of the Board having undertaken an annual governance audit during the year under review. The audit is expected to address governance practices including leadership and strategic management, transparency and disclosure, compliance with laws and regulations, Board independence and governance, consistent shareholder engagement and value enhancement among others.

Management Response

The Managing Director Responded as Follows;

I. Pursuant to the Capital Markets Authority Circular No. 1 of 2020 dated 2.1.2020, Governance Audits are to be conducted once in every 2 years.

II. Further, taking things in context, the Company was fully engaged in implementing the energy sector reforms as recommended by the Presidential Task force on the Review of Power Purchase Agreements and hence it was not tenable to undertake the governance audit noting the extensive nature of the recommendations comprehensively addressed the governance concerns.

Committee Observation

The Committee was informed that at that particular time the company was undertaking major reforms and that subsequently, the company with the guidance of the Auditor general are now undertaking the Governance Audit.

Committee Recommendation

The Matter was not resolved and the Committee recommends the OAG to keep the matter in view in future audit cycles.

MIN.NO.NA/PIC-CA&E/2025/192: ANY OTHER BUSINESS

The Committee took note of the delayed supply of power meters by KPLC to the consumers causing commercial loses and insecurity around the country. The Committee directed KPLC management to come up with mitigation measures in their next meeting.

MIN.NO.NA/PIC-CA&E/2025/193: ADJOURNMENT

There being no other business, the meeting was adjourned at 13:35 pm. The next meeting will be held on Wednesday 15th 2025 at the same venue.

Signed: .....

.....

HON. DAVID PKOSING, CBS, M.P.
Chairperson

Date: .....

MINUTES OF THE 41ST SITTING OF THE PUBLIC INVESTMENTS COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD ON WEDNESDAY, 12TH NOVEMBER 2025 ON 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. Dr. John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. David Kiplagat M.P.
4. Hon. Sarah Paulata Korere, M.P
5. Hon. Dr. Beatrice Adagala, M.P
6. Hon. Charo Kazungu Tungule, M.P
7. Hon. Yusuf Mohamed Farah, M.P

APOLOGIES

1. Hon. Festus Mwangi Kiunjuri, EGH, M.P
2. Hon. Esther Muthoni Passaris, M.P.
3. Hon. Duncan Mathenge Maina, M.P
4. Hon. Dr. Babu Owino Paul Ongili, M.P
5. Hon. Paul Kahindi Katana, M.P
6. Hon. Dr. Adan Keynan Wehliye, CBS, M.P
7. Hon. Betty Njeri Maina, M.P
8. Hon. Ronald Kamwiko Karauri, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1.	Ms. Wanjiru Mwaura	-	Principal Clerk Assistant I
2.	Mr. Andrew Kipchumba	-	Clerk Assistant III
3.	Ms. Isabella Mwembi	-	Clerk Assistant III
4.	Ms. Angela Musau	-	Legal Counsel II
5.	Ms. Judith Kiprop	-	Fiscal Analyst II
6.	Mr. Timoty Chiko	-	Research Officer III
7.	Mr. Amos Tindi	-	Hansard Reporter II
8.	Ms. Lily Cherotich	-	Public Relations Officer
9.	Mr. Brian Ojaamong	-	Media Relations Officer
10.	Ms. Mercyline Kerubo	-	Audio Officer
11.	Ms. Esther kerubo	-	Atachee

OFFICE OF THE AUDITOR GENERAL

1.	Mr Daniel Kuria	–	OAG Liaison Officer
2.	Mr. Fredrick Omondi	–	OAG Deputy Director
3.	Mr. Abdirahaman Maalim	-	OAG PA

KENYA POWER AND LIGHTING COMPANY (KPLC)

1.	Eng. (Dr) Joseph Siror	–	MD/CEO
2.	Dr. John Ngeno	–	General Manager, Supply Chain and Logistics
3.	Ms. Cythia Siele	–	Human Resource and Administration
4.	Eng. Kennedy Owino	–	Ag. General Manager Infrastructure Development
5.	CPA Stephen Vikuru	–	General Manager Finance
6.	Mr. Evans Owiye	–	Manager Treasury

MIN. NO. NA/PIC-CA&E/2025/199: PRELIMINARIES

The meeting was called to order at 10:15 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2025/200: COMMUNICATION FROM THE CHAIR

1. The Chairperson welcomed the Members and stakeholders to the meeting. He stated the Committee would examine the audited accounts of Kenya Power and Lighting Company (KPLC) for the FY 2022/2023.

2. The Chairperson informed the Committee that following a Round Table engagement between the Committee, the National Treasury, and the Ministry of Energy held on 12th August, 2025 regarding repair and maintenance of thirteen mini-grids across the country. During which, it was agreed among other things that upon payment of Kshs.1.3 billion as dividends to the National Treasury, Kshs 600 Million was to be re_allocated towards the repair of the mini-grids.

3. That despite KPLC having fulfilled their part, the Repair and maintenance of the mini-grids has not started leaving the affected parts of the country in darkness and many businesses suffering losses.

4. Consequently, the Committee has scheduled another Round Table Meeting to be held on 25th November, 2025, which will bring together the Cabinet Secretary for National Treasury, Ministry of Energy and Controller of Budgets to find a lasting solution.

MIN.NO.NA/PIC-CA&E/2025/202: CONFIRMATION OF MINUTES

This agenda item was deferred to the next meeting.

MIN.NO.NA/PIC-CA&E/2025/203: MEETING WITH THE CHIEF EXECUTIVE OFFICER, KENYA POWER AND LIGHTING COMPANY (KPLC) TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2022/2023.

The management of KPLC, led by the Managing Director, appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2022/23.

FINANCIAL YEAR 2022/2023

EMPHASIS OF MATTER

1.0 Material Uncertainty Relating to Going Concern

Committee Observation

The Committee observed that this was a recurring matter that has been handled in FY 2021/2022.

2.0. Long Outstanding Receivables from Other Government Entities

Committee Observation

The Committee observed that this was a recurring matter that has been handled in FY 2021/2022

3.0. Foreign Currency Exposure and Uncompensated Forex Losses

Committee Observation

The Committee observed that this was a recurring matter that has been handled in FY 2021/2022

4.0. Unmatched Pass through Costs to Revenue

Committee Observation

The Committee observed that this was a recurring matter that has been handled in FY 2021/2022

5.0. Penalties on Overdue Invoices

The financial statements reflects an expenditure of Kshs.24,153,922,000 on finance cost. Included in this amount is Kshs.1,120,143,000 relating to Interest on late payment of invoices. This expenditure which resulted in the increase in cost of sales , and negatively affected the company's cash flows as well as profitability, could have been avoided with proper credit management..

Management Response

The Managing Director responded as follows:

The late payment interest paid to KenGen is based on the contractual PPA terms and the historical accumulation of the payable amount due to financial challenges facing KPLC. In the year under review, KPLC payments to KenGen were Kshs 1,126 Million over and above the total

invoice amount for the period in a deliberate attempt to reduce the overdue amount and hence lower the late payment interest.

In subsequent years significant progress was achieved in reducing the overdue power purchase obligation owed to KenGen and the IPPs and thereby reducing the late payment interest amount.

Committee Observation

The Committee observed that KPLC was paying off the loans from the payments it receives from County Governments and Parastatal, and that delayed payments of such funds often results in its delayed payment of invoices often resulting in penalties.

Committee Recommendation

(i.) The Committee recommended that KPLC should come up with a contractual agreement with the lenders on most visible agreeable timelines for repayment of invoices to avoid accumulation of penalties.

(ii.) The OAG to keep the matter in view in future audit cycles.

6.0. Procurement of Goods and Services

6.1 Un-Procedural Purchase of Land

The Management procured a 10-acre land in Machakos County at a cost of Kshs.75,000,000 for the construction of a substation to improve reliability and quality of electricity supply in Athi River and its environs. Management engaged a valuer to undertake valuation of the market price of the 10 acres. The valuer's report dated 13 April, 2011 gave the value of the land as Kshs.40,000,000. This was communicated to the seller which also undertook its independent valuation and gave a valuation of Kshs.70,000,000 in a report dated 7 September, 2011. However, Management failed to negotiate with the seller as required under the Company's policy on acquisition of the Company properties and acquired the property at a price that was higher than the market value returned by the valuer it had earlier engaged of Kshs.40,000,000.

In addition, purchase of the land had no approval from The National Treasury, Ministry of Energy and the Management Committee of the Company as required under Paragraph 1.2.3 (1) of the Guidelines for Management of Specific Categories of Assets and Liabilities and Clause 6.1 of the Company's Operating Procedures on Acquisition/ purchase of Company Property. Further, the land had been encroached by a third party who claimed to hold a court order in his favour.

Management Response

The Managing Director responded as follows:

i. Network development including the need for new substations, was guided by the distribution master plan based on energy load systems management approved by the Ministry of Energy;

ii. As part of the acquisition process, the Company commissioned a valuation of the parcel and that the valuation returned a Market value of Kshs. 40 million dated April 2011 for the 10

acres. East African Portland Cement (EAPC) commissioned a second valuation which returned a market value of Kshs. 105 million dated September 2011. Kenya Power sought a third opinion and commissioned a valuation which returned market value of Kshs. 110 million dated January 2012;

iii. Negotiations were held between KPLC and EAPC as as per attached letters; and

iv. The land is surveyed and title registered under KPLC. A portion of the land (one side) is encroached through crop cultivation by others with no permanent structures constructed.

Committee Observation

(i.) The Committee observed that the land was purchased from the East African Portland Cement (EAPC) which is a government agency and that the amount agreed was kshs. 70 million.

(ii.) The Committee further noted that the unoccupied eight acres which was still not yet fenced could be invaded by third parties and therefore it would be prudent for the management to secure it with a fence.

Committee Recommendation

The matter stands resolved.

7.0. Irregular Procurement of Spare Parts for Distribution Automation Systems

A tender for Purchase of spare parts for the Distribution Automation Systems (DAS) was awarded to a supplier at a cost of USD 432,925.21 (approximately Kshs.52,816,876). Review of procurement process revealed that, Management used Request for Quotation documents instead of standard tender documents for goods under direct procurement as provided under Section 104(a) of Public Procurement and Asset Disposal Act, 2015. The quotation documents used had not provided for the technical specifications for the goods, and therefore, the basis upon which the tender was evaluated could not be confirmed.

In addition, the tender documents required the bidder to quote for nine (9) items. However, during evaluation and negotiations by the evaluation Committee, the bidder was awarded six (6) items after indicating that the Remote Terminal Unit (RTU) inner box for Load break switch with upgraded module of Gemini 3 will be supplied instead of the current Gemini 2.5. The initial quote had provided for fifty (50) pieces of the RTU at Kshs.21,166,512 (USD 173,496.48). However, the price was increased to Kshs.25,578,642 (USD 209,661) for the same items resulting in an increase in the costs of the spares by Kshs.4,412,130 (USD 36,165).

Consequently, the evaluation Committee materially altered the original tender against the provisions of Section 75(1) of the Public Procurement and Asset Disposal Act, 2015, which should have been revised before the deadline of tender submitting period.

Management Response

The Managing Director responded as follows:

i) Distribution Automation System (DAS), was supplied, installed and commissioned in 2017 by Lucy Electric-UK. The umbilical cable, LBS, RMUs inner box and the RTUs must be compatible to the existing DAS to achieve the benefits of automation.

That due to Compatibility, standardization, Lucy Electric-UK are the only ones who could supply the RTUs that met our technical specification to ride on the existing SCADA system infrastructure. The tender was a direct tender to Lucy Electric-UK . Approval for Direct tender and tender Document. Approved Business Case for Direct tendering and Confirmation of Funds attached

ii) The tender evaluation criteria used was for direct tendering despite using a template for request for quotation (see criteria under Part 1 no.12 in the tender document to ensure that only Standard Tender Documents are used.

iii) The decision to award six (6) instead of nine (9) was based on the available budget of Kshs 50,000,000.

Committee Observation

The Committee observed that management did not supply OAG with quotation and specification documents from Lucy Electrical Company to explain the variation arising from amount tendered and actual amount paid.

Committee Recommendation

The Committee directed the management of KPLC to submit to the OAG the quotation to Lucy Electric UK showing the increase in price and change of specifications of the parts.

8.0. Failure to prepare financial statement for a Donor Funded project.

Note 43(b) the financial statements reflects that the Company received funding from the World Bank through Credit No.5587-KE to support electricity modernization projects. As at 30 June, 2023, a balance of USD 68,266,159 equivalent to Kshs.9,592,999,656 was outstanding in respect of the loan. However, since inception of the project in 2015 Management of the company KPLC have not prepared and submitted financial statements for the project as required in Clause 90.3 (1) of the subsidiary loan agreement between the Government of Kenya and Kenya Power and Lighting Company PLC dated 29 July, 2015.

Management Response

The Managing Director responded as follows:

i. The KEMP -IDA Finance Agreement provided that "*the recipient entity financial statements should be audited and submitted to the lender together with the management letter not later than six months after end of the financial year*". KPLC has been submitting to the World Bank the audited financial statements with the management letter within the provided timeline.

ii. Further, the company has incorporated a disclosure note within its financial statements.

iii. Furthermore, as per clause section II- B (2) of the agreement, Interim Financial Report (IFR) is submitted to the World Bank quarterly.

iv. Section II- B (3)- complied by submitted KPLC audited FS every six months after Year end.

Committee Observation

The Committee observed that KPLC had complied with the requirements of Clause 90.3 (1) of the Subsidiary Loan Agreement between the Government of Kenya and Kenya Power by submitting its audited financial statements every six months after the year end. Further, the Committee noted that the project was completed in June 2023.

Committee Recommendation

The matter stands resolved.

9.0. Irregular Payment of Long Outstanding Payables

During the year under review, the Company paid one hundred and fifty-seven (157) invoices for services rendered in 2014 and 2017 for eight (8) suppliers at a total cost of Kshs.488,714,883 which had initially not being paid due to inadequate documentation. A committee appointed to vet and verify the Invoices and deliveries in December, 2022 indicated that the failure to settle the invoices in a timely manner was as a result of breakdown of the payment process, non-submission or late submission of invoices the suppliers, provision of goods without a valid framework agreement, lack of various requisite documents required for payment such as professional opinion, a valid contract, performance bond physical local purchase orders (LPOs), physical goods received notes and inspection and acceptance reports.

However, the committee recommended the payment to the suppliers without the above cited supporting documentation being provided, and a payment of Kshs.488,714,883 subsequently made.

Further, included in the committee report for payment was an amount of Kshs.11,625,919 in respect of a supplier that was not among the seven (7) suppliers for which the committee was appointed to verify and validate its invoices and deliveries. The inclusion of this supplier in the committee report and the subsequent payment is therefore irregular and its validity could not be confirmed. Similarly, an invoice for one of the seven (7) suppliers amounting to Kshs. 835,200 was paid despite the invoice not been validated by the verification committee.

In the circumstances, the value for money of the payables of Kshs.488,714,883 could not be confirmed.

Management Response

The Managing Director responded as follows:

The Company had a number of long outstanding obligations to supplier which had remained unpaid due to insufficient documentation. Records at KPLC stores confirmed that the goods were received and subsequently issued out for business. The MDs approval was thus sought to address the issue of inadequate documentation to settle the (7) suppliers

The eighth supplier was not flagged for approval due to incomplete documentation, but because the contract had expired. Accordingly, the committee deemed a separate MD approval unnecessary. This supplier had already been included in the MD's original 2019 approval.

Committee Observation.

The Committee noted that management had not yet supplied relevant documents to OAG for examination and analysis of the irregular payment of long outstanding payables.

Committee Recommendation

(i) The Committee directed the OAG to access the KPLC SAP System and examine the GRN's for eight (8) suppliers and submit the report to the Clerk Office by close of Business 14/11/2025.

(i) The OAG to keep the matter in view in future audit c

10.0 Employee Costs

10.1 Irregular payment of Exit Pay

A former Managing Director of the Company requested to disengage with the Company to pursue other engagements through a letter dated 3 August, 2021 . The Board considered and approved the request on 11 August, 2021 and later approved payment of Kshs.26,820,648 as final exit payment comprising of full compensation of the remaining contract period of fifteen (15) months. The payment was subject to approval by the Ministry of Energy, and The National Treasury who both granted approvals on 25 May, 2022 and 11 April, 2022. While not objecting to the payment, The National Treasury advised that the same be subjected to approval of State Corporation Advisory Committee (SCAC). However, SCAC approval was not obtained prior to payment of the gratuity of Kshs.26,820,648 as advised.

In addition, the payment contravened the Staff Regulations and Procedures which provides that if an employee resigns before the completion of his contract, he/she will have no entitlement to gratuity, or any terminal leave pay. Further, included in the exit pay was an amount of Kshs.2,520,000 paid as payment in lieu of notice. However, the payment was irregular since it is only payable to an employee whose employment contract is terminated by the Company without giving notice. In this case, the former Managing Director resigned without giving a notice and ought to have paid the Company a notice of Kshs.2,280,000.

In the circumstances, the regularity of Kshs.26,820,648 exit pay could not be confirmed.

Management Response

The Managing Director responded as follows:

The former MD&CEO separation from the company was based on mutual agreement between himself and the Board of Directors as indicated in his letter dated 3 August, 2021. In his letter of mutual separation he indicated the package to be paid that is gross salary and gratuity up to end of contract, lieu of notice and outstanding leave days which the Board reviewed and approved.

Based on approval from the Board of Directors the Company sought further approval from the Ministry of Energy, who granted the approval through a memo dated 11 April, 2022

Committee Observation

The Committee observed that the exit was on mutual agreement between the former MD and the Company and that The National Treasury and the Ministry of Energy had approved the payment.

Committee recommendation

The matter stands resolved

10.2 Acting Allowances Beyond the limit

Review of the Company's employee records on appointments to acting positions and allowances paid thereof revealed that ninety (90) employees were appointed on acting capacity for long periods and continued to draw acting allowances beyond the stipulated six months' period. In some instances, some employees had been holding positions in an acting capacity for more than five (5) years, without obtaining special approval from Chief Manager, Human Resources and Administration as provided for in the Company policy. This is contrary to the provisions of the Company's staff regulations and procedures .

Additionally, some of the employees were appointed to act in positions that were two job groups higher than their substantive positions contrary to provisions of the Staff Rules and Regulations. Further, acting allowances to employees was paid from the first month of acting contrary to part IV (b) of the Company's Staff Regulations and Procedures which provides that no acting allowance will be paid in respect of the first two months during which an employee is acting.

In the circumstances, Management was in breach of Company policies and procedures on Human Resources.

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

Management Response

The Managing Director responded as follows:

The Company had a number of staff who have acted beyond 6 months. This was attributed to different Government circulars that froze recruitment even at a time when the company was

implementation the County Structure to be able to serve its customers effectively across the counties. Retiring staff and those leaving the organization for other reasons were not replaced over the period hence the need to have lower-level staff acting in positions of higher responsibility. However, any acting beyond six months is approved by General Manager, HR & Admin.

That before a staff is appointed to act, considerations are made based on competencies, skills grading, abilities and experience except in exceptional circumstances.

Management approved payment of acting allowance from the first month of acting in a meeting held on 16th June 2015 Attached is the paper seeking approval as well as the staff regulations.

Committee Observation

(i.) The Committee noted that management of KPLC had submitted approvals for fourth five (45) officers and the other fourth five (45) was not provided.

(ii.) The Committee also observed that management had developed a policy on remuneration of acting officers to be paid within the first month and the policy was currently under review by the Public Service Commission.

Committee Recommendation

The Committee directed that Management of KPLC and the OAG to reconcile the approval documents for the ninety officers who were acting beyond the limit and the OAG to submit the report to the Committee.

11.0 Power Losses

Committee Observation

The Committee observed that this was a recurring matter that has been handled in FY 2021/2022

12.0 Delays in Completion of Customer Electricity Connection Projects

The statement of financial position and as disclosed in Note 16 to the financial statements, reflects work in progress balance of Kshs.16,667,971,000. Included in the balance are projects for which customers had paid a total of Kshs.12,079,656,000 in respect of electricity connections. However, twenty-one thousand two hundred and thirty-one (21,231) projects with a total capital contribution paid for by the customers of Kshs.966,901,128 were yet to start with some of the projects in respect of two (2) customers having been created and paid for eleven (11) years ago. This is contrary to the Company's Customer Charter on connection of electricity which provides for timelines within which electricity connection for customers are to be carried out depending on the type of connection ranging from seven (7) days to twenty-eight (28) days.

Management therefore, continues to hold customer electricity connection fees in form of capital contributions amounting to Kshs.12,079,656,000, as disclose in Note 28 (a) to the financial statements. Delayed connection of these customers denies them electricity and at the

same time denies the Company revenues. Management attributes the delays in completion of projects to wayleaves acquisition challenges leading to re-designs of some projects and sometimes abandonment of the same, non-availability of critical materials needed for construction such as cables, conductors, meters and transformers and suspension of the construction contracts with hired labor and transport contractors and on-going court cases.

In addition, review of customer electricity connection projects listed in work in progress revealed that twenty-one thousand, seven hundred and thirty-four (21,734) projects with capital contributions payment of Kshs.3,048,656,972 which had no costs attributed to them as evidence that the projects have been undertaken but have been closed in the system and indicated as complete. Management did not provide explanations on how projects paid for by the customers can be completed and closed in the system without the Company using any materials to connect electricity for the customers.

Further, three hundred and forty-nine (349) customers' projects initiated with a total expenditure of Kshs.321,639,101 had no corresponding capital contribution by the customers, an indication of connecting customers without payment of the required connection fees.

In the circumstances, the effectiveness of controls in place to monitor customer connections could not be confirmed.

Management Response

The Managing Director responded as follows:

The delays in completion of projects was occasioned by some of the following challenges:

i) Wayleaves acquisition challenges leading to re-designs of some projects and sometimes abandonment of the same;
ii) Non – availability of critical materials needed for construction during the period under review. These include cables, conductors, meters and transformers;
iii) Suspension of the construction contracts with hired L&T contractors and on-going court cases; and
iv) Implementation of the digitization process, which required more time to complete.

Committee Observations

(i.) The Committee observed that delays in completion of customer electricity connection projects was attributed to wayleave challenges and management currently ensures that consent for wayleave is sought before the electric line projects are commenced.
(ii.) Management was advised to explore framework contracts in the supply of meter in order to navigate the challenges brought about by the procurement system.

Committee Recommendation

The matter was partially resolved, OAG to keep the query in view in subsequent financial years.

13.0 . Weaknesses in Project Management

Review of the project management practices and work in progress records at the Company revealed that as at 30 June, 2023, more than twenty-one thousand (21,000) projects with a total

cost of Kshs.16,629, 134,000 were listed as ongoing in the Company's records. However, eight thousand five hundred and six (8,506) projects with a cost of Kshs.14,257,200,696 were behind their respective execution schedules having been outstanding for between three (3) to thirteen (13) years. In addition, review of the Company's project management system revealed absence of a robust, documented risk assessment and project monitoring during project life cycles. Project delay risks were not identified and mitigated in time. Similarly, no monitoring through a matrix designed to

assess project management controls and feed the information into a project risk register for action to take place.

Further, the Board and Management established a project management office in 2020 responsible for the coordination and guiding implementation of capital projects to ensure achievement of the expected business benefits. The projects management office was expected to maintain database and information of all capital projects under implementation. However, as at the time of audit, the database containing information of all capital projects under implementation maintained by the project management office had not been established. This led to lack of proper coordination and standardization of projects implementation activities resulting in duplicated, delayed or abandoned projects thus making the Company to incur extra costs either directly or indirectly due to lost opportunities. Additionally, there was no project management framework and project

Management Response

The Managing Director responded as follows:

The Project Management Office (PMO) maintains a database and information of 145 major capital projects across Company that it coordinates, monitors and guides implementation. There are 15 capital projects identified and considered strategic that are tracked, monitored and reported to various stakeholders.

Additional projects are at different stages of the process of being included to the central database at the Project Management Office.

The draft Project Management Policy and Project Management Framework was going through approval process and expected to enhance standardization of project implementation, well defined performance measurement and reporting.

A budgetary allocation was approved to procure a project management tool that will integrate project portfolio management through centralized project monitoring and control.

Committee Observation

The Committee noted that KPLC had established the Project Management Office (PMO) that maintains a database and information of all major capital projects across the country and coordinates, monitors and guides implementation.

Committee Recommendation

The matter stands resolved.

14.0. Trade Receivables

14.1 Unpaid Electricity Bills

Analysis of post-paid billing data and payments for the financial year under review revealed that seven hundred and twenty-nine thousand, seven hundred and thirty-two (729,732) accounts were billed for electricity consumption costing Kshs.1,803,302,369 but had not made payments towards settling the bills. In addition, the accounts remained active despite disconnection work orders having been raised against them.

Management Response

The Managing Director responded as follows:

Debt management and collection through enforcement measures such as disconnection require significant field manpower to effectively cover the breadth and width of the entire Country. The company had been experiencing staff attrition without replacement over recent years, hence exacerbating the challenge.

Management has enhanced field presence by deploying an additional workforce to pursue outstanding debt, also rolled out the implementation of smart meters on a phased approach to automate the management of customer accounts.

Committee Observation

(i.) The Committee noted that the unpaid electricity bills was owed mainly by other government agencies and that management had made significant progress to collect these debts over the years and there is great reduction in the debt.

(ii.) The Committee advised Management to explore the prepaid system in order to prevent accumulation of unpaid bills by government agencies.

Committee Recommendation

The matter stands partially resolved, OAG to keep in view in subsequent financial year.

14.2. Pre-loaded Units Debt

An evaluation of pre-paid debtors revealed pre-loaded units receivable amount of Kshs.81,652,643 that accrued since financial year 2012. Out of the amount, only Kshs.6,700,123 has been settled representing only 8%. Despite the prepay records showing that the meters are installed, it is likely that the customers do not vend after the preloaded units ran out. Thus, the Company is unlikely to recover debt attributed to preloaded units of Kshs.74,952,520.
In the circumstances, the effectiveness of controls in place to monitor meter activities could not be confirmed

Management Response

The Managing Director responded as follows:

Initially the pre-paid meters were pre-loaded with 30 units, this was reduced to 3 units. However, the tariff then had standing charges such that by the time some customers finished consuming the preloaded units they could not afford to pay the accrued standing charges and the pre-loaded debt. This led to the company lobbying EPRA to remove the standing charges in the billing concept (the revenue be accounted in the per unit cost). Further, the company adopted zero pre-loaded units policy by the year 2017 to address any re-occurrences.

Committee Observation

The committee observed that KPLC had adopted zero pre-loaded units policy by the year 2017 to address the matter, Further, it was noted that the pre-loaded units debt had decreased significantly over the subsequent years.

Committee Recommendation

The Committee recommended the matter as resolved

15.0 Power Outages as a Result of Unstable Renewable Energy Generation.

The Company is heavily impacted by the variable renewable energy sources (solar and wind} due to their high level of instability or intermittency during the dispatch operations. These generation sources are continuously supported by other plants which are dispatched to meet the difference of generation dropped at any one time which in the final analysis means that the actual cost of generation is the cost of the intermittent source plus the cost of generation dispatched to stabilize the ensuing intermittency by meeting the generation shortfall.
When there is a sudden rise in generation due to the intermittency, the power system also becomes unstable and leads to the excess generation above the demand and this also leads to poor power quality to customers. During these instabilities, parts of the power system goes off as part of the self-protective mechanisms of the power system and this leads to outages and therefore loss of revenue. There is need to have a cost effective stabilization mechanism for these variable generation sources that are currently on the grid and regulations put in place to ensure that all renewable energy generation sources are installed with their stabilization mechanisms as part of the power generation contracting requirements.

Management Response
The Managing Director responded as follows:
The PPA had provided measures as follows;

- In the event that the Power producer shall, in accordance with the PPA, provide at a particular point in time (T) a one hour ahead forecast (being a forecast covering the period commencing T+1 hour and ending on T+2 ("Forecasted Period")) of the anticipated electrical energy to be generated by the Plant during the Forecasted Period ("Forecasted Net Electrical Energy"), the Power Producer shall curtail during the Forecasted Period the Net Electrical Output to the Forecasted Net Electrical Energy plus two (2) MW provided that if the Power Producer determines at a certain moment in time that it is able to produce and deliver more electrical energy than the Forecasted Net Electrical Energy, the Power Producer will notify the Buyer of such ability. KPLC will have the option

("Forecast Option") to take that additional amount of electrical energy by notifying the Power Producer accordingly, and if so, the Power Producer shall deliver such amount of additional electrical energy as instructed by KPLC and KPLC shall be required to pay for such additional electrical energy delivered in the manner set out in the PPA. If KPLC does not exercise the Forecast Option, the Power Producer should curtail the electrical energy above the Forecasted Net Electrical Energy plus two (2) MW.

Committee Observation

i. The Committee noted that power outages resulted from fluctuations of renewable energy i.e. solar and wind plants and that management was implementing measures such as installations of battery storage in these plants to assist in stabilizing power during peak hours.

Committee Recommendation

The matter stands resolved.

.16.0. Unmetered Connections

An analysis of work requests from the data generated from integrated customer management system (INCMS) revealed, that ten thousand, seven hundred and forty five (10,745) new connections were awaiting metering for more than one year. Further, scrutiny of meter booking report revealed that meters booked against the work requests for the new connections were picked from the regional stores but as at the time of the audit, they were yet to be installed. Notably, some meters booked and issued in 2018 were yet to be installed.

Management Response

The Managing Director responded as follows:

Work Request Reference Classification	No.	Meaning of Classification.
Mother References -	4,545	These are work requests relating to last-mile schemes intended to meter several households. The work requests have prefixes (Z, C, B, G, D, S, F and U). Work requests under this category do not draw meters directly. Child references with prefix Y are created from these mother references to facilitate metering of each individual customer in the scheme. Upon completion of metering and payment of contractors, the work requests are capitalized.
Re-routing	861	These are work requests relating to relocation of network infrastructure due to road expansion/customer requests. The works requests have prefix T.

		Status of paid up re-routing jobs was changed to pending construction with effect to 1st September 2022. Hence, any new re-routing jobs will no longer be captured under pending metering status. The 861No references which were registered prior to 1st September 2022 have since been moved to pending construction to correct the anomaly.
Customer Work Requests	21,188	Customer work requests are registered with prefixes P,A,E,Y,N,Q&M. Outlined below is the metering status of the customer schemes, 10,443No – Have since been metered. 10,745No – scheduled for metering and were to be completed by December, 2023

Committee Observations/Recommendations

(i.) The Committee noted that management had made significant progress to connect the unmetered customers; however, there were more customers who were still unmetered and management informed they were making progress to acquire more meters.

(ii.) The OAG to keep the matter in view in future audit cycle.

MIN.NO.NA/PIC-CA&E/2025/201: ADJOURNMENT

There being no other business, the meeting was adjourned at 13:28 pm. The next meeting will be held on notice.

Signed: .....

.....

HON. DAVID PKOSING, CBS, M.P.
Chairperson

Date: .....

MINUTES OF THE 2ND SITTING OF THE PUBLIC INVESTMENTS, COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD TUESDAY, 25TH FEBRUARY, 2026 IN COMMITTEE ROOM 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

MEMBERS

Present

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. (Dr.) John Ariko Namoit, M.P. -**Vice Chairperson**
3. Hon. Festus Mwangi Kiunjuri, EGH, M.P
4. Hon. Sarah Paulata Korere, M.P
5. Hon. Esther Muthoni Passaris, M.P.
6. Hon. Paul Kahindi Katana, M.P
7. Hon. David Kiplagat M.P.
8. Hon. Duncan Mathenge Maina, M.P
9. Hon. Yusuf Farah Mohamed M.P.

Apologies

1. Hon. (Dr.) Adan Keynan Wehliye, CBS, M.P
2. Hon. Dr. Babu Owino Paul Ongili, M.P
3. Hon. Dr. Beatrice Adagala, M.P
4. Hon. Charo Kazungu Tungule, M.P
5. Hon. Betty Njeri Maina, M.P
6. Hon. Ronald Kamwiko Karauri, M.P

IN ATTENDANCE

National Assembly Secretariat

1.	Ms. Esther Nginyo	-	Senior Clerk Assistant
2.	Mr. Andrew Kipchumba	-	Clerk Assistant III
3.	Ms. Gladwel Amimo	-	Research Officer III
4.	Ms. Judith Kiprop	-	Fiscal Analyst II
5.	Ms. Angela Musau	-	Legal Counsel II
6.	Mr. Amos Tindi	-	Hansard Reporter
7.	Mr. Brian Ojamaa	-	Media Relations Officer
8.	Ms. Lily Cherotich	-	Protocol Officer
9.	Mr. Danton Kimutai	-	Audio Officer

Office of the Auditor-General

1. Mr. Fredrick Oluoch - DDA
2. Mr. Daniel Kuria - Liaison Officer

The National Treasury

Ms. Cheryl Majiwa - Officer

Kenya Electricity Transmission Company Limited

1. Eng. Kipkemoi Kibias - Ag. Managing Director & CEO
2. Eng. Justin Muna - Ag. General Manager Design and Construction
3. CPA Tom Imbo -General Manager Finance
4. Florence Mitey -Company Secretary and General Manager Legal
5. Dr. Njogu Kimande -General Manager Strategy ,Research and Compliance
6. Jane Valigwa -Head of Procurement
7. Mildred Mwihaki -Manager Financial Accounting
8. Millicent Muthoni -Finance
9. Jack Nduri -Communication
10. Otieno Arnold -Communication

MIN. NO. NA/PIC-CA&E/2026/006: PRELIMINARIES

The meeting was called to order at 10:25 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2026/006: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholder to the meeting. He stated that two financial years were under review.

MIN.NO.NA/PIC-CA&E/2026/007: CONFIRMATION OF MINUTES

The following set of Minutes were confirmed as a true record of the proceedings:

i) Minutes of the 39th Sitting held on Tuesday, 14th October, 2025, having been proposed by Hon. Yusuf Farah Mohamed M.P., and seconded by Hon. Esther Muthoni Passaris, M.P.;

ii) Minutes of the 40th Sitting held on Tuesday, 11th November, 2025, having been proposed by Hon. David Kiplagat MP., and seconded by Hon. Sarah Paulata Korere, M.P;

iii) Minutes of the 41st Sitting held on Wednesday 12th , November, 2025, having been proposed by Hon. Sarah Paulata Korere, M.P., and seconded by Hon. Yusuf Farah Mohamed M.P.;

iv) Minutes of the 41st Sitting held on Tuesday 18th , November, 2025, having been proposed by Hon. Esther Muthoni Passaris, M.P., and seconded by Hon. (Dr.) John Ariko Namoit, M.P.

MIN.NO.NA/PIC-CA&E/2026/008:MEETING WITH THE MANAGING DIRECTOR, KENYA ELECTRICITY GENERATING COMPANY TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2021/2022 AND FY 2022/2023.

The management of KETRACO, led by the Acting Managing Director/Chief Executive Director, Eng. Kipkemoi Kibias appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2021/22 and FY 2022/23.

FINANCIAL YEAR 2021/2022

1. Deferred Grant Income

Management Response

The Accounting Officer informed the Committee that the total grant addition was 10,222,033,000 comprising of Exchequer Development 4,549,000,000 and Development partner support 5,673,033,000 .

According to the Accounting Officer, the outstanding direct component of Ksh.74,110,351,000 would be amortized over 61 years, and 123,636,058,000 would take 119 years to be amortized as per the report was incorrect. This is because under the IAS 20(Accounting for Government Grants and Disclosure of Government Assistance), and the company policy, the grants are recognized as deferred income and amortized over the useful life of capitalised assets, which is 40 years. These therefore excludes grants relating to assets under construction.

Further, the management stated that computation of deferred grant income only takes into account projects that have been capitalized as per IAS 20. It is expected that deferred grant income will keep on changing due to changes in assets value. The amortisation year by year is based on the closing balances

of the Assets financed by the deferred grant income.

Committee Observation

The audit issue was addressed by the Committee in the previous financial years.

2. Unsupported Capital Work In Progress

Management Response

The Accounting Officer informed the Committee that Kshs.694,724,780 and Kshs.363,758,780 included as part of work in progress was a provision in relation to ongoing cases against the company that have a high likelihood of crystalizing. These ongoing cases mainly relates to implementation of the projects and if they crystalize, cost of ongoing projects would most likely go up. Feasibility studies of Kshs.198,432,566 represents projects that are planned to be implemented by the company as per the transmission master plan.

Committee Observation

The audit issue was addressed by the Committee in the previous financial years.

3. Unsupported Trade and Other Trade Payables

Management Response

The Accounting Officer stated that the amount of VAT receivable (Input VAT) of Kshs.1,368,924,997.06 was the cumulative VAT amount relating to vatable purchases since inception. Input VAT is declared and offset against VAT payable (Output VAT) monthly through the monthly VAT return.

The amount declared in the VAT return for June 2022 was a payable amount of Kshs.23,833,601.23 while the difference between input VAT and output VAT as at 30 June 2022 was a receivable amount of Kshs.49,555,023.45, totaling to a difference of Kshs.73,388,624.68.

Committee Observation

The audit issue was addressed by the Committee in the previous financial years.

4. Undisclosed Amounts Due to KETRACO

Management Response

The Committee was informed by the Accounting Officer that at the time of the audit, the Novation agreement had not been signed/executed thus the assets

valued at Kshs.4,481,056,467 in respect of transmission lines could not be included in the Company's PPE. The Olkaria I and IV transmission line was implemented by KenGen through loan financing and was to be transferred to Ketraco upon completion of novation agreement. The novation agreement was signed on 29th August 2024 and the Government through National Treasury undertook to settle the project costs on behalf of Ketraco.

Committee Observation

The audit issue was addressed by the Committee in the previous financial years.

5. Unsupported Trade and Other Receivables

Management Response

The Accounting Officer submitted that the AUC advance of Kshs 1,008,597,137,000 represents own source funding used to for construction of Olkaria Lessos Kisumu project. It represents a GOK reimbursement by the by the National Treasury.

Litigation costs receivable of Kshs 3,684,674,261,000 relates to ongoing arbitration case by *Inabensa* against KETRACO. The presumption is that in the event the company has to settle Inabensa liabilities the GOK will provide budgetary support. These costs represent administration costs that are not to be capitalized as per IAS 16 and therefore are to be expensed once the liability crystalizes.

Additionally, advance payment of Kshs 2,807,940,909 was paid in the financial year and Kshs.1,618,253,176 represent sum of all advance payments paid to contractors as per contractual agreement which are to be reduced against progress payments.

The VAT receivable amount of **Kshs.1,368,924,997.06** is the cumulative VAT on purchases which was captured over the years in the SAP system under the VAT input account. This amount has been declared through the monthly VAT returns. The schedule and details of the VAT input amount is included in the i-Tax return. During the filing of the VAT returns, input VAT is offset against the output VAT.

VAT receivable (VAT input) amount was held in a separate account in the SAP system hence the cumulative amount. However, journals have been passed to offset the cumulative amount in VAT input against the cumulative VAT output amount and a reconciliation of the net balance in the VAT receivable account provided Acknowledged VAT 3 return.

Committee Observation

The audit issue was addressed by the Committee in the previous financial years.

6. Unsupported Rights of Use of Assets

Management Response

The Accounting Officer submitted that the right of use of asset relates to leases that the company had contracted with various vendors. An increase in right of use indicates a new lease entered into by the Company.

Committee Observation

The Committee noted the Accounting Officer had submitted the lease agreement and they were still occupying and leasing new offices as they expanded their grid.

Committee Recommendation

The matter stands resolved.

7. Amount due from Kenya Power and Lighting Company (KPLC)

Management Response

The Accounting Officer submitted that the variance of Kshs.75,612,000 relates to withholding tax against the invoices that KPLC processed but not yet paid.
Remittance of funds by KPLC during the financial year 2021/2022 was Kshs.4,781,361,429 which includes payment of pending invoices. The remittances are on a monthly basis. This had seen a reduction of receivable to Kshs.2,308,924,370.00 as at February 2026.

Committee Observation

I. The Committee noted improved remittance from KPLC as well as gradual reduction in the amount of debt owed by KPLC.
II. The Committee was also noted that the withholding tax in question was paid by KPLC on behalf of KETRACO but the tax certificate was pending which gave rise to the audit query.

Committee Recommendation

The matter stands resolved.

8. Pending Way Leave Compensation

Management Response

The Accounting Officer informed the Committee that the long outstanding wayleave balances are occasioned by the following:

i) Insufficient budget allocation,

ii) Incomplete documentation and disputes on land ownership.

iii) In some cases, this involves litigation which takes a longer time to resolve.

Additionally, the company continued to receive exchequer support from the Government of Kenya to facilitate payment of pending wayleave , Payment of outstanding wayleaves is based on available budget. The company is collaborating with other government agencies to resolve disputes relating to wayleave compensation.

Committee Observation

I . The Committee was informed that the pending way leave compensation was occasioned by insufficient budgetary allocations and delayed exchequer releases.

II . The Accounting Officer informed the Committee that the management did not compensate for the whole piece of land but for the limited use of the land. In addition, the lines are only constructed as per the will of the owners of the lands and not otherwise.

III . The Committee noted a reduction in the way leave compensation amount, resolving the matter partially.

Committee Recommendation

The Accounting officer was directed to submit the following documents for verification;

i) A list of landowners yet to be compensated;
ii) Challenges experienced in the compensation of land owners;
iii) A list of wayleaves for each project affected.

9. Amount due to KPLC

Management Response

The amount disclosed under related parties consists of obligations that were transferred to Ketraco after signing of novation agreements relating to

Kamburu Meru and Chemosit Kisii. In addition, operations and maintenance costs for relating to services offered by KPLC before Ketraco took over O&M activities were also included. Ketraco & Kenya Power team continuously reconcile & match their related party balances to ensure that they match each other statements at any given time.

Committee Observation

I. The Committee was informed that the amount due was a variance which was caused by lack of documentation from Kenya Power and Lightening company (KPLC).
II. On the current status of the debt, the Accounting Officer informed the Committee that KPLC had not submitted all the required documents for the matter to be closed.

Committee Recommendation

The Committee directed the Accounting Officer to submit invoices supporting the Kshs.138 million owed to KPLC.

10. Non-recognition of Power Tariff Reduction Contributions

Management Response
Tariff reduction was for the calendar year from January 2022 to December 2022 as a result the financial statements 2021/2022 were restated by 250 Million to reflect the tariff reductions as advised by EPRA ref. EPRA/ERS/ER/2/Vol.4/JS/rb dated 30 September, 2022 extract of the restated Financial Statement.

Committee Observation

The Committee noted that the accounting anomaly was corrected and the power tariff reduction contributions was being recorded correctly. The matter stands resolved.

11. Provision of contingent liabilities

Management Response
The Accounting Officer of KETRACO submitted that the provisions and contingent liabilities are continuously updated by management to assess basis of crystalizing. In accordance to the applicable financial reporting standards, IAS 37 (Provisions, contingent liabilities and contingent Assets), the contingent liability have been disclosed on the notes to the financial statements.

The significant contribution is the Arbitral award case relating to the termination of the contractor of Interconnection of Electric Grids of Nile

Equatorial Lakes countries (Kenyan Parts) Kenya- Uganda Lot A 400kV Lessos Tororo project. The arbitration case was delivered in July 2019 awarding 37,365,691.96 Euros and Ksh.102,165,144.20. However, KETRACO appealed up to the Supreme Court. The Supreme Court delivered their ruling upholding the arbitral award .

Further, the Company requested The National Treasury through Ministry of Energy for the financing of the project on 20th August, 2020 which has not been responded to. In the meantime, the negotiations to settle the arbitral award has commenced and was being spearheaded by a multisectoral committee members from EPRA, KETRACO, MoE, NT and Attorney General Office.

Committee Observation

The Committee noted that the audit issue had been addressed in the previous financial years.

12. Material Uncertainty relating to going concern

Management Response

The Accounting Officer stated that the company's liabilities are largely funded by Government grants which arise from project implementation. The company current liabilities consist of contractual payments payable through direct payment mode where contractor receives funds directly from the financier. Therefore, the obligations are matched with commitments under the finance agreements. In addition the company has made full disclosure of the going concern status as disclosed in Note 33 to the financial statements.

Committee Observations

The Committee was informed that the matter raised by the Auditor General was an oversight on the presentation of financial statements which has then been resolved.

13. Payments made for terminated and stalled projects

Management Response

The composition of 12,691,433,033 is made up of Kshs.8,714,632,590 incurred on construction of the Lessos-Tororo-Transmission line as 30.6.2 and Kshs.3,976,801,443 paid to M/s. Jyoti Structures Ltd in respect of Kenya Power Transmission System Improvement Project (KPTSIP) comprising of; Bomet-Sotik, Mwingi-Kitui-Wote-Sultan Hamud, Nanyuki-Nyahururu and Olkaria transmission lines.

Further, payments of Kshs.3,976,801,443 made to Jyoti Structures Limited were for works already undertaken and materials supplied. The contractor (China CAMCE) who took over the works was continuing with works from where Jyoti Structures Limited stopped. Value for Money was obtained under Kenya Power Transmission System Improvement Project.(KPTSIP)

Consequently, Jyoti structures Limited contract was terminated due to Bankruptcy on the contractor. KETRACO liquidated performance guarantee amounting to Kes. 409,486,412.50 issued by Jyoti Structures Limited. Value for Money was obtained under Kenya Power Transmission System Improvement Project. All the projects under KPTSIP have since been completed and commissioned.

In relation to Lessos-Tororo, the actual total paid up amount in relation to the project was Kes.5,008,154,385 as at 30.6.2021.The amount of Kes.8,714,632,590 consists of unpaid amounts in relation to arbitral award Kes.2,270,789,283, Pending payables of Kes.1,493,912,959. The paid up amount was based on works and services rendered at the time of termination hence no need to recover the amounts from the contractor. At the time of termination KETRACO recalled performance guarantee amounting to Ksh 134,258,399.40

KETRACO appealed to the High Court for setting aside of the arbitral award to *inabensa*. The High Court delivered their ruling in February 2021 upholding the arbitral award. KETRACO appealed the case in the Court of Appeal. The Court of appeal on 19th November 2021 delivered their ruling upholding The High Court ruling. The Court of Appeal ruling was subjected to an appeal petition at the Supreme Court . The Supreme Court delivered their ruling upholding the Court of appeal ruling.

Committee Observation

The Committee was noted that at the time of examination that all other projects were complete and running with only one stalled due to a court case that had taken a long time.

Committee Recommendation

The Committee directed the Accounting Officer to submit relevant documentation relating to the complete and incomplete project.

14. Non-compliance with Loan Novation Agreement

Management Response

The Accounting Officer submitted that in FY 2019/2020 Ministry of Energy formed a Task Force to address energy sector emerging issues. From the Task Force report, the implementing agencies in the energy sector were to be given a moratorium on repayment of government on lent loans for 24 months. The loan mentioned above was part of the loans to be considered for the moratorium. However, a moratorium was not given for the loan in question.

The Committee was then informed that the company had engaged EPRA to consider additional tariff allocation to be utilized in repaying the loan. In the meantime KETRACO had made two repayments to the National Treasury of KES. (288,458,384.00) on 30 June 2025.

Committee Observation

I. The Committee noted that the Novation agreement was a tripartite agreement, involving KETRACO, KPLC and The National Treasury. Further, the agreement was signed by two parties save for National Treasury.

II. Additionally, the agreement involved transfer of assets and liabilities from KPLC to KETRACO, with transmission lines being part of the assets that were handed over to KETRACO.

III. The Committee also noted that the reported loan liability was not among the loans to receive a moratorium for 24 months hence the reason for non-payment.

Committee Recommendations

The Committee directed the Accounting Officer of KETRACO to submit the loan schedules and balances and documented evidence of payments made and reconciliation documents if any.

MIN.NO.NA/PIC-CA&E/2026/009: ADJOURNMENT

There being no other business, the meeting was adjourned at 12.45pm. The next meeting will be held on notice.

Signed: .....

.....

HON. DAVID PKOSING, CBS, M.P.

Chairperson

Date: 11/3/2026

MINUTES OF THE 3RD SITTING OF THE PUBLIC INVESTMENTS, COMMITTEE ON COMMERCIAL AFFAIRS & ENERGY HELD THURSDAY, 26TH FEBRUARY, 2026 IN COMMITTEE ROOM ON 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10:00 A.M.

MEMBERS

Present

1. Hon. David Pkosing, CBS, MP - **Chairperson**
2. Hon. (Dr.) John Ariko Namoit, M.P. - **Vice Chairperson**
3. Hon. Esther Muthoni Passaris, M.P.
4. Hon. Paul Kahindi Katana, M.P
5. Hon. Duncan Mathenge Maina, M.P
6. Hon. Yusuf Farah Mohamed M.P.

Apologies

1. Hon. (Dr.) Adan Keynan Wehliye, CBS, M.P
2. Hon. Festus Mwangi Kiunjuri, EGH, M.P
3. Hon. Sarah Paulata Korere, M.P
4. Hon. Dr. Babu Owino Paul Ongili, M.P
5. Hon. Dr. Beatrice Adagala, M.P
6. Hon. Betty Njeri Maina, M.P
7. Hon. Charo Kazungu Tungule, M.P
8. Hon. David Kiplagat M.P.
9. Hon. Ronald Kamwiko Karauri, M.P

IN ATTENDANCE

National Assembly Secretariat

1. Ms. Esther Nginyo - Senior Clerk Assistant
2. Mr. Andrew Kipchumba - Clerk Assistant III
3. Ms. Gladwel Amimo - Clerk Assistant III
4. Ms. Judith Kiprop - Fiscal Analyst II
5. Ms. Angela Musau - Legal Counsel II
6. Mr. Brian Ojamaa - Media Relations Officer
7. Mr. Danton Kimutai - Audio Officer

Office of the Auditor-General

1. Mr. Fredrick Omondu - DDA
2. Mr. Daniel Kuria - Liaison Officer

The National Treasury

Ms. Cheryl Majiwa - Officer

NUCLEAR POWER AND ENERGY AGENCY (NUPEA)

1. CS. Justus Wabuyabo - Managing Director
2. Mr. Edwin Chesire - Officer
3. Mr. Benedict Njuguna - Officer
4. Mr. Peter Ndungu - Officer
5. Mr. Naftali Gitonga - Officer
6. Mr. Alexander Kyalo - Officer

MIN. NO. NA/PIC-CA&E/2026/010: PRELIMINARIES

The meeting was called to order at 10:19 a.m. with a prayer said by the Chairperson. Thereafter, introductions were made.

MIN. NO. NA/PIC-CA&E/2026/011: COMMUNICATION FROM THE CHAIR

The Chairperson welcomed the Members and stakeholder to the meeting. He stated that five financial years were under review.

MIN.NO.NA/PIC-CA&E/2026/012: CONFIRMATION OF MINUTES

Confirmation of the Minutes of the previous sitting was deferred to the next meeting.

MIN.NO.NA/PIC-CA&E/2026/013: MEETING WITH THE MANAGING DIRECTOR, NUCLEAR POWER AND ENERGY AGENCY (NUPEA) TO EXAMINE THE AUDITED ACCOUNTS FOR THE FY 2018/2019 AND FY 2022/2023.

The management of NUPEA, led by the Managing Director CS. Justus Wabuyabo appeared before the Committee to adduce evidence on the audit queries that had been raised by the Auditor General for the FY 2018/2019 and FY 2022/23.

The Managing Director submitted as follow:

He provided a brief history of the organization, outlining the role it plays in the energy sector within the country. He further explained that a Cabinet decision had been made to dissolve the organization and transfer its functions to the Ministry of Energy. However, there had been new developments, as a communication from the Principal Secretary of the State Department of Energy rescinded the earlier decision.

Committee Recommendation

The Committee directed the management of NUPEA to submit the letter from the Principal Secretary rescinding the decision to the Clerk's Office by 6th March 2026.

FINANCIAL YEAR 2018/2019

1. Budget Control and Performance

The Agency had a 13% underfunding of Kshs. 597,270,000 budget and 12% under-expenditure of the budget which may have impacted negatively on service delivery to the public.

Management Response

Out of the approved exchequer budget of Kshs. 597,270,000, the Agency received Kshs. 509,984,600, resulting in a shortfall of Kshs. 80 million. This amount was not realized and therefore was never remitted to the Agency.

Committee Observation

The Committee noted that the budget shortfall resulted from the Parent Ministry's failure to remit the allocated funds.

Committee Recommendation

The matter stands resolved.

2. Incomplete Fixed Assets Register

The Agency had not maintained a comprehensive register reflecting the cost, disposals, depreciation, accumulated depreciation, location of the asset, tagging and officer responsible for each asset. It was not possible to determine the status these assets..

Management Response

The Agency maintains a Fixed Assets Register that records key details such as the date of purchase, asset tagging, and location. For financial reporting purposes, the Finance Department separately tracks asset costs, classifications, purchase dates, and depreciation charges using the Sage Accounting System. Following the auditor's recommendation, the Agency has developed and maintains a fixed asset register following the specified parameters.

Committee Observation

The Committee observed the management had developed a comprehensive fixed asset register that was regularly updated.

Committee Recommendation

The matter remains resolved.

3. Unfunded Employee Gratuity

The Financial Statement reflected accrued employee gratuity amounting to Kshs. 52,128,879. Management had opened a separate bank account for managing the accrued gratuity. However, for three years, no funds had been set aside and transferred to the account for payment of the accrued gratuity.

Management Response

At the time of audit that account was not funded since the Agency did not have actual funds for the same. This issue was resolved in the financial year 2021/22 when the Agency was able to secure requisite funding from the exchequer for that purpose.

Committee Observation

The Committee was informed that the employee gratuity bank account received funding in the 2021/2022 financial year.

Committee Recommendation

The matter stands resolved.

FINANCIAL YEAR 2019/2020

1. Budgetary Control and Performance

The Statement of comparative budget and actual amounts reflected an underfunding of 5% of the budget. Similarly, the Agency had under-expenditure of 17% of the total approved budget of Kshs. 903,224,500. This impacted negatively on the service delivery to the public.

Management Response

The Agency had planned and budgeted for the said activities in the financial year. However, due to the effects of Covid-19 pandemic some of the planned activities could not be implemented.

Committee Observation

The Committee noted that the disruption by the Covid-19 pandemic affected the roll out of planned activities.

Committee Recommendation

The matter stands resolved.

2. Incomplete Fixed Assets Register

The Agency did not maintain a complete register of asset.

Committee Observation

The Committee noted the query was recurring and had been handled in the previous financial year.

3. Lack of Financial Expert in the Board of Directors

There was no representation in the Board by a member who possessed financial management or accounting qualifications as required by the *Mwongozo* Code of Governance which was necessary for the constitution of the Board Audit Committee.

Management Response

This matter had been noted by the Board Audit Committee and was raised to the Full Board for action. The same was remedied in FY 2021/2 after it had been raised with the relevant authorities.

Committee Observation

The Committee noted the Board was properly constituted with a financial expert appointed in the FY 2021/2022.

Committee Recommendation

The matter stands resolved.

FINANCIAL YEAR 2020/2021

1. Property, Plant and equipment

The Statement of financial position show that the Agency applied a different depreciation charge to motor vehicles, office equipment and intangible assets which differed with the rate prescribed in the depreciation policy.

Management Response

The variances arose because, in the year under review, the Agency applied depreciation rates prescribed under the Income Tax Act, rather than those prescribed in the Agency's finance manual. This anomaly was rectified in FY 2021/22 through review of the Agency's Financial Manual.

Committee Observation

The Committee observed that the anomaly on the depreciation of assets had been corrected and the agency updated their financial manual.

Committee Recommendation

The matter stands resolved.

2. Unsupported Dormant Bank Account

The financial position reflects cash and cash equivalent balance of Kshs. 222,346,051which includes Kshs. 47,559 held in a commercial bank account which has been dormant for a long time.

Management Response

The dormant bank account was closed through a Board Resolution passed on 20th July, 2023.

Committee Observation/Recommendation

The bank account was closed, thus the matter stands resolved.

3. Unsupported Expenditures

An expenditure of Kshs. 67,461,400 on assorted items which did not relate to resource development activities was not supported with the approval for reallocation of funds while Kshs. 1,619,860 was not supported with details of the participants. Management did not also provide evidence that goods were procurement competitively as required by PPADA, 2015.

Management Response

a) The figure of Kshs. 67,461,400 expended under resource development for the NPP was budgeted as follows:

i. Supplementary Budget 1 of Kshs. 45,000,000

ii. Supplementary Budget 2 of Kshs. 26,000,000

b) The procurement of the items under the head of resource development for the NPP was through restricted tendering as allowed under section 102 of the Public Procurement and Asset Disposal Act, 2015.

Committee Observation

The Committee noted the management had provided documents to support the unsupported expenditures.

Committee Recommendation

The matter stands resolved.

4. Budgetary Control and Performance

The statement of comparison budget and actual amounts for the year ended 30 June, 2021 reflected budgeted receipts of Kshs. 949,494,208 against actual receipts of Kshs. 941,495,529 while the final expenditure was Kshs. 779,212,058. There was therefore 1% revenue shortfall and 18% under-expenditure which could have impacted on the implementation of activities.

Management Response

The under-expenditure on goods and services was primarily attributable to reduced operational activities resulting from Government-imposed COVID-19 restrictions. These restrictions limited the Agency's ability to fully implement its planned programs and work plans during the year, thereby negatively affecting budget absorption levels.

Committee Observation

The Committee noted that the disruption by the Covid-19 pandemic affected the roll out of planned activities.

Committee Recommendation

The matter stands resolved.

5. Non-Preparation of Financial Statements for the Fund

Transfer of Kshs 287,285,000 for Staff Mortgage and Car Loan Fund to Stima Sacco which operates the Fund on behalf of the Agency. However, the verification of the amounts held by the Sacco amounted to Kshs. 223,870,000 resulting in unexplained variance of Kshs. 64,415,000.

Management Response

The Kshs. 64,415,000 variance was as a result of the fact that some of the mortgage facility was being held with Development Bank of Kenya. That amount was later transferred to Stima Sacco in the FY 2021/2. Following the observation of the auditor Management has since the FY 2023/24 been preparing separate financial statements for the car loan and mortgage schemes after being advised and guided.

Committee Observation

The Committee observed the management had a separate financial statement for the mortgage facility commencing from FY 2023/24.

Committee Recommendation

The matter stands resolved.

6. Delayed Consultancy Services

Management awarded a contract to a consultant for the revaluation of assets and preparation of the asset registers at a contract sum of Kshs. 3,135,000. However, the revaluation and preparation of the asset registers had not been completed by the end of the year and therefore there was no value for money.

Management Response

COVID-19 Government restrictions imposed during the first half of the FY 2020/2021 affected the development of the Fixed Asset Register and the asset revaluation exercise. The consultancy engagement continued in the second half of the year as restrictions eased.

Committee Observation

The Committee noted the consultancy services was fully rendered and the fixed asset register developed.

Committee Recommendation

The matter stands resolved

7. Irregular Issuance of Imprest

There was issuance of Kshs. 3,992,365.75 as imprest to Board of Directors who are not employees of the Agency. There was also no evidence of imprest surrender as required by Regulation 93(5) of the PFM Regulations, 2015.

Management Response

Management notes the observation and wishes to clarify that, in line with the Mwongozo Code of Governance, Board members are entitled to remuneration for their services in accordance with prevailing legislative provisions and guidance from the relevant authorities.

Committee Observation

The management informed the Committee that the Board members were issued with imprests to facilitate their travel during official engagements; however, they did not provide the documents to support the surrender of the imprests.

Committee Recommendation

The Committee directed the management of NUPEA to submit the documents for imprest surrender by 6/03/2026 to the Clerk's Office.

8. Procurement of an Enterprise Resource Planning (ERP) Software

The statement of financial position included an amount Kshs. 16,493,778 for procurement of an ERP software using direct method of procurement. There was however no rationale for the use of the method as required by section 103(2) of PPADA, 2015 and there was no evidence to confirm that the supplier was the only supplier for the software.

Management Response

The observation by the auditor on direct procurement was not in respect of ERP. Rather, it was in respect of PSSE software platform which direct procurement for the platform was done.

Committee Observation

The management informed that the direct procurement was related to PSSE software which was a patented product not the ERP software.

Committee Recommendation

The Committee directed the OAG to liaise with management of NUPEA to clarify on the query and report to the Committee by 6/03/2026.

9. Non-Compliance with Executive Order on Procurement

The Agency was yet to migrate its procurement processes to the E-procurement platform, while its procurements were processed manually contrary to Executive Order No. 2 of 2018.

Management Response

The Agency had initial difficulties complying with Executive Order No. 2 of 2018 largely due to institutional capacity challenges. To address those challenges, the Agency requested for capacity building from PPRA on 16th April, 2026 which was done and the Agency

regularized the situation after the training. (See Annexures 10 (a) and (b) – Letter Ref: NUPEA/SRC/PPRA/VOL.1 dated 16 April 2021 requesting targeted capacity building for

relevant staff to PPRA and an excerpt of the Agency's profile on the Public Procurement Information Portal showing compliance

Committee Observation

The Committee noted that the management faced capacity challenges in relation to procurement laws and, as a result, sought assistance from the Public Procurement Regulatory Authority (PPRA), which subsequently conducted capacity-building training for the institution.

Committee Recommendation

The matter stands resolved.

FINANCIAL YEAR 2021/2022

1. Inaccuracies in the Financial Statements

The statement of financial performance for the year ended 30 June, 2022 reflected a deficit of Kshs. 70,207,926 which was at variance with a deficit of Kshs. 66,286,079 reflected in the statement of comparison of budget and actual amounts resulting in a variance of Kshs. 3,921,847.

Management Response

This variance arose primarily due to differences in the basis of accounting and classification of revenues and expenditure made during the preparation of the financial statements. The Statement of Comparison of Budget and Actual Amounts is prepared on cash basis while the Statement of Financial Performance is prepared on accrual basis in compliance with International Public Sector Accounting Standards (IPSAS).

The differences relate recognition of certain accrued expenses, non-cash items, and commitments that are captured under accrual accounting but excluded in the budget comparison statement.

Committee Observation

The management informed the Committee the variance rose from differences in the basis of accounting and classification of revenues and expenditure and the OAG confirmed the Financial Statements had been corrected.

Committee Recommendation

The matter stands resolved.

2. Non-Preparation of Financial Statements for the Fund

The statement of financial position reflected transfer of staff mortgage and car loan fund amounting to Kshs. 317,285,000. However, management had not prepared separate financial statements for the Fund contrary to Section 84(1) of PFM Act, 2012.

Committee Observation

The Committee noted the query was recurring and had been handled in previous financial year.

3. Failure to Observe One Third of Basic Salary Payment Rule

Payroll records for the months of March and June revealed that 18 officers were paid a net salary that was less than a third of the basic pay contrary to section 19(3) of the Employment Act, 2007.

Management Response

i. March 2022 Payroll

The Agency's payroll system is configured to automatically enforce this requirement to ensure ongoing compliance. However, due to a system error, a small number of employees were inadvertently excluded from this control in March 2022, resulting in breaches of the 2/3 rule.

ii. June 2022 Payroll

Management further clarifies that the instances noted in the June 2022 payroll relate to recoveries of outstanding imprests as at the end of the year. Government financial regulations require that any outstanding imprests must be recovered in full from the employees' pay before the close of the financial year.

Committee Observation

The Committee noted the anomaly in March 2022 was due to a system error which had since been rectified, further, for the June 2022 the affected officers had outstanding imprests which was recovered in that month.

Committee Recommendation

The matter stands resolved.

4. Unapproved Directors Fees Payable

An amount of Kshs. 12,120,000 was for payment of Director fees under trade and other payables, which was effected before the approval by the National Treasury.

Management Response

The balance represents provisions for Directors' fees accumulated over prior periods, pending formal approval of the payment by the National Treasury. In response to the National Treasury's letter dated 02 March 2020, which requested supporting evidence for the Directors' entitlement such as the Agency's Remuneration Policy for Board Members and a detailed breakdown of the outstanding fees, management compiled and submitted the requested documentation for consideration.

However, formal approval of the payment rates by the National Treasury had not been received by the time of audit, which explains why evidence of approval was unavailable for audit review.

Committee Observation

The Committee observed the management currently do not provide for Directors fees, and during this particular financial year despite the provision no money was paid.

Committee Recommendation

The matter stands resolved.

5. Non-Compliance with Executive Order on Procurement

The Agency did not publish processed tenders in the Public Procurement Information Portal and it was yet to migrate its processes to the E-procurement platform contrary to the Executive Order No. 2 of 2018.

Committee Observation

The query had been handled in the previous Financial Year.

6. Unapproved Domestic Appliances Loan

The financial statements reflected interest on staff loans of Kshs. 114,719 in respect to domestic appliances loan. However, there was no approval from the National Treasury for the advancement of the credit facility as required by law.

Management Response

The domestic loan for the staff of the agency was part of the terms and conditions of service approved by the Head of Public Service.

However, during the audit exercise for FY 2018-2019 the auditor recommended and management concurred with the recommendation that domestic loans should be charged interest at the prescribed rate by Kenya Revenue Authority. The management with effect from March 2020 effected charging of interest as per the prescribed rate of 10%.

Committee Observation

The Committee noted the management from March 2020 had effected charging of interest as per the prescribed rate of 10%.

Committee Recommendation

The Matter stands resolved.

7. Unapproved Over-Expenditure

The statement of comparison of budget and actual amounts for the year ended 30 June, 2022 reflected receipts budget of Kshs. 889,276,042 against actual amount of Kshs. 870,607,025 reflecting 2% shortfall. Similarly, it reflected an expenditure of Kshs. 936,895,103, a 5% above the approved budget.

Management Response

The noted over-expenditure primarily arose from the need to account for work in progress carried forward from the FY 2020/2021 into the current financial year. Specifically, this included commitments for goods and services that were procured and contracted in the prior year but whose delivery, invoicing, or completion occurred in FY 2021/2022. However, the over expenditure incurred of 5% is within the allowable budget variance limit of 10%.

Committee Observation

The Committee was satisfied with the response provided by the management and resolved the query.

FINANCIAL YEAR 2022/2023

1. Irregular Utilization of Petroleum Development Levy Funds

An amount of Kshs. 200,000,000 from the Petroleum Development Fund was utilized on implementation of nuclear projects contrary to Section 4(4) of the Petroleum Development Fund Act, 2012.

Management Response

The Agency depends entirely on the funding in form of exchequer releases from the Ministry of Energy. The amount of Kshs.200M was budgeted for under the Ministry and was to be funded by Appropriation in Aid (AIA) collected by the Ministry. The Agency received the money as per the budgetary allocations for the financial year under review.

Committee Observation

The Committee noted the Agency received the money from the Parent Ministry as per their budgetary allocations.

Committee Recommendation

The matter stands resolved.

2. Failure to Prepare Financial Statements for Staff Mortgage and Car Loan Fund

The statement of financial position reflected transfer of staff mortgage and car loan fund amounting to Kshs. 317,285,000. However, management had not prepared separate financial statements for the Fund contrary to Section 84(1) of PFM Act, 2012.

Committee Observation

The matter had been handled in the previous financial year.

3. Irregular Procurement for Consultancy Services - Enterprise Resource Planning (ERP) Implementation

An expenditure of Kshs. 9,692,300 reflected as consultancy fees for procurement of a consultant for PRE-ERP implementation process. The management used the list of the pre-qualified suppliers to seek proposal for the consultancy contrary to section 122(1) of PPADA, 2015. The management invited bids from firms that had not put in their expression of interest and qualified to be invited.

Management Response

The Agency while in the process of implementing an ERP System, engaged the services of a consultant under the Quality and Cost Based Selection method (QCBS) as the procurement default method under consultancies in line with section 124(1) (2) of the Public Procurement and Asset Disposal Act.

The expression of interest (EOI) in section 118 to122 of PPADA,2015 is not a selection method for consultancy services but a prequalification or shortlisting process that leads to invitation of qualified consultants under section 128 of the PPADA,2015.

The Act gives several options of inviting consultants and in section118 of PPADA,2015, utilization of register under section 57 of the Act is allowed.

The Agency maintains a list of registered suppliers of goods, works, services and consultants in line with section 57 and 71 of the PPADA,2015 which are used for all other alternative procurement methods (71(4) save for open tender and expression of interest.

Having a list of registered in the category of consultants for ICT Consultancy Services the Agency opted to use the list and invited the consultants under QCBS as the most suitable method for consultancy services.

It should be noted that after EOI and coming up with the most qualified consultants, apart from QCBS, other selection methods like the Quality based Selection, Least Cost Selection, Fixed Budget Selection among others can still be applied by issuing a request for proposal to the bidders in line with relevant laws.

Committee Observation

The Committee noted there was need by the OAG to scrutinize the query and the response provided.

Committee Recommendation

The Committee directed the OAG to relook into the response provided by the management and to submit their conclusion to the Committee.

4. Irregular Reallocation of Funds

The Agency spent a total of Kshs. 16,429,506 on gratuity against an allocation of Kshs. 15,000,000, and Kshs. 30,185,316 on medical expenses against an allocation of Kshs. 25,000,000 resulting into over-expenditure of Kshs. 1,429,506 and Kshs. 5,185,315 respectively contrary to Section 43(2)(b) of the PFM Act.

Management Response

The over-expenditure was primarily due to unavoidable and unforeseen obligations. For gratuity, the increase resulted from additional contract staff exits requiring payment of terminal benefits. For medical expenses, the higher costs were driven by increased staff utilization of medical services beyond initial projections. The variance is within the allowable 10%.

Committee Observation

I. The Committee noted the management ought to have made proper planning by incorporating the budgets for staff who were exiting.
II. The Committee observed the management had not provided documents supporting the over expenditure in gratuity and medical expenses.

Committee Recommendation

The Committee directed the management to submit the documents to Clerk's Office by 06/03/2026.

5. Outstanding PAYE Penalties and Interest

The KRA *iTax* portal for Income Tax assessment for the Agency reflects cumulative penalty and interest charges of Kshs. 1,473,814 contrary to Section 105 of the Income Tax Act.

Management Response

The Agency consulted KRA which conducted a sensitization on different tax obligations and responsibilities. Currently, the Agency has no outstanding obligations owed to KRA.

Committee Observation

The management submitted a tax compliance certificate from the Kenya revenue authority confirming their adherence to tax obligations.

Committee Recommendation

The matter stands resolved.

6. Non-Compliance of Mortgage Loan Terms

The Agency mortgage facility as per section E part 48 of the scheme's regulations had a maximum of 25 years contrary to section 7 of Circular SRC/ADM/COR/1/13/Vol. III/128 of 2014 providing for a mortgage facility duration of 20 years.

Management Response

Management acknowledges the typographical error in the Agency's scheme regulations, which incorrectly stated the maximum repayment duration as 25 years. However, auditors were provided with evidence demonstrating that no beneficiary has had their mortgage repayment duration set at 25 years, but rather at 20 years in compliance with the SRC circular.

Committee Observation

The Committee was informed that the maximum duration of mortgage repayment was 20 years and not 25 years as was erroneously stated.

Committee Recommendation

I. The Committee directed the management of NUPEA to submit the Communication from the Salaries & Remuneration Commission that allowed staff on contractual basis to access the mortgage facility.
II. The Committee directed the OAG to confirm the duration of mortgage facility for the contracted staff, and to check if there was any staff that was given mortgage beyond the stipulated time.
III. The submission to be submitted to Clerks Office by 06/03/2026.

7. Excess Composition of Board Members and Committees

The Agency had nine (9) Board Members, requiring that the membership of its committees should be a third, translating to three (3) members of the Board. However, four (4) of the Committees of the Board had membership of four (4) members against good governance structure of the board.

Management Response

In August 2022, the Board constituted various Committees with this consideration in mind. Furthermore, *Mwongozo* recommends a minimum quorum of three members for Committee meetings. Committees composed of only three members would face a heightened risk of failing to meet quorum requirements in the event of any member's absence due to unavoidable circumstances.

Committee Observation

The Committee noted the board was properly constituted as per the Mwongozo code of good governance practices.

Committee Recommendation

The Committee recommends the matter as resolved.

MIN.NO.NA/PIC-CA&E/2026/014: ADJOURNMENT

There being no other business, the meeting was adjourned at 12:45 pm. The next meeting will be held on notice.

Signed: .....

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HON. DAVID PKOSING, CBS, M.P.
Chairperson

Date: 11/3/2026