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by Committee Chair
on Wednesday 11/04/2018*

REPUBLIC OF KENYA



*Approved
Hok
DS 11/4/18*



KENYA NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ENERGY



TWELFTH PARLIAMENT-SECOND SESSION

REPORT

ON

THE CONSIDERATION OF THE ENERGY BILL, 2017

NATIONAL ASSEMBLY BILL NO. 50

VOL 1

Directorate of Committee Services
Clerk's Chambers
Parliament Building
NAIROBI

April, 2018

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Abbreviation and Glossary

KEPSA -Kenya Private Sector Alliance

KOGA - Kenya Oil and Gas Association

TUCUSA- Turkana County University Student Association

ACTS -African Centre for Technology Studies

COG - Council of Governors.

FDP - Field Development Plan

KCSOP - Conservation Alliance of Kenya (Kenya Society of East Africa on Wildlife)

PSC - Production Sharing Contract

Chairpersons Foreword

The Energy Bill, 2017 underwent the first reading on 14th February, 2018 and thereafter committed to the Committee on Energy as provided for in the Standing order 127(1).

The Bill seeks to consolidate the laws relating to energy, align the legal and regulatory framework of the energy sector with the Constitution of Kenya, 2010. It does this by setting out with clarity the specific roles of national and County Government in relation to Energy. The Bill proposes to repeal the Energy Act No.12 of 2006 and Geothermal Resources Act No.12 of 1982 of laws of Kenya.

The Committee while considering the Bill pursuant to Article 118(b) and Standing Order 127(3), invited the public and stakeholders to submit representation/comments they might have on the Bill. This invitation was done through, a notification which was placed in the mainstream print media on 22nd February, 2018.

Having received many written submission from non-state actors as well as from county governments that mainly host geothermal, petroleum and other energy resources, the committee saw the important need to directly engage with the Community and carry out an extensive public participation as envisioned in the Standing orders to collect views and oral submissions related to the Energy Bill, 2017.

Pursuant to article 118 of the constitution as well as the provisions of Standing order 127 of the National Assembly and in order to make informed and fitting recommendations to the House regarding the proposed Energy Bill, 2017 , the Committee set out to conduct public hearings in the counties of Turkana, Nakuru, Narok, Muranga, Kitui and Lamu.

To this end therefore, the Committee held a total of 25 working Sittings with the residents of these counties to receive oral submissions regarding the two bills. The Committee has provided an annexures of attendance these meetings and submissions to the Committee in form of report attached to this report. The Committee also took cognizance of the concerns raised by Honorable Members of Parliament from the counties where the Committee visited.

This report on Public hearings may not be exhaustive enough but it is sufficient to inform and to guide the House while considering the Energy Bill, 2017. It is my belief that it contains far reaching observations and recommendations which if incorporated into the proposed legislation would afford the Public an opportunity to participate in the legislative process of the bill.

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support and services extended to the Members to enable the Committee complete this report within the given timelines.

I am grateful for the Members of the Committee whose support enabled the Committee to accomplish this task. Special thanks to the Secretariat for their technical support during the compilation of the report.

Hon. David Gikaria, M.P

1.0 Preface

Hon Speaker,

On behalf of the Departmental Committee on Energy and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Energy Bill, 2017.

The Bill was committed to the Committee on Wednesday 14th February, 2018 and it is on the basis of this that the Committee makes this report pursuant to Standing Order 127.

1.1 Mandate of the Committee

The Departmental Committee on Energy is established pursuant to provisions of Standing Order 216 (5). Under the provisions of Standing Order 216 (5) the Committee is mandated to inter alia:

- (i) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- (ii) To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.
- (iii) To study and review all legislation referred to it;*
- (iv) To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
- (v) To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House;
- (vi) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (*Committee on Appointments*); and
- (vii) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

The Departmental Committee on Energy oversees the performance of the following State departments:-

- (i) Energy, and
- (ii) Petroleum.

1.2 Composition of the Committee

The Committee comprises the following Members-

1. The Hon. David Gikaria, M.P. - **Chairperson**
2. The Hon. (Dr.) Robert Pukose, M.P. - **Vice Chairperson**
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Ekomwa Lomenen James, M.P.
5. The Hon. Joseph Wathigo Manje, M.P.
6. The Hon. Lemanken Aramat, M.P.
7. The Hon. Oscar Sudi, Kipchumba, M.P.
8. The Hon. (Eng.) Vincent Musyoka Musau, M.P.
9. The Hon. Amina Gedow Hassan, M.P
10. The Hon. Abdikhaim Osman Mohamed, M.P
11. The Hon. Clement Muturi Kigano, M.P.
12. The Hon. Elisha Odhiambo, MP
13. The Hon. Elsie Muhanda, MP
14. The Hon. Gitau Faith Wairimu, M.P.
15. The Hon. Julius Musili Mawathe, MP
16. The Hon. Ken Chonga, MP
17. The Hon. Tindi Nicholas Mwale, MP
18. The Hon. Walter Owino, MP
19. The Hon. Mohammed Ali Lokiro, MP

1.2.1 Committee Secretariat

The Committee is resourced with the following technical staff, representing the Office of the Clerk;

1. Mr. Benjamin Magut - First Clerk Assistant–Lead Clerk
2. Mr. Douglas Katho - Third Clerk Assistant
3. Ms. Brigita Mati - Legal Counsel
4. Ms. Jemimah Waigwa - Legal Counsel
5. Mr. Eugene Apaa - Research Officer
6. Mr. Moge Abdinasir - Fiscal Analyst
7. Mr. Joseph Okong’o - Media Relations Officer
8. Mr. John Ng’ang’a - Audio Recording Officer
9. Ms. Sheila Chebotibin - Sergeant at Arms

1.3 Consideration of the Energy Bill, 2017

Hon. Speaker,

The Energy Bill, 2017 underwent first reading on 14th February, 2018 and thereafter was committed to the Committee on Energy as provided for in the Standing order 127(1).

The Bill seeks to consolidate the laws relating to energy, align the legal and regulatory framework of the energy sector with the Constitution of Kenya, 2010. It does this by setting out with clarity the specific roles of national and County Government in relation to Energy. The Bill proposes to repeal the Energy Act No.12 of 2006 and Geothermal Resources Act No.12 of 1982 of laws of Kenya.

Hon. Speaker,

Pursuant to Article 118(b) and Standing Order 127(3), which require public participation and involvement in the legislative and other business of Parliament and its Committees, a notification was placed in the mainstream print media on 22nd February, 2018 informing the public that the Committee was considering the Energy Bill, 2017 and inviting them to submit any representation they might have on the Bill.

Hon. Speaker,

The Committee held twenty seven (27) meetings with the State department of Energy and other stakeholder to consider pertinent issues that the Bill was seeking address. Further, the Committee received written memorandum and submissions from fourteen (14) organization among them:

1) Ministry of Energy

The Ministry is responsible for policy formulation in the; exploration, development and sustainable use of power generation, Rural electrification program, Renewable Energy promotion & development, Energy regulation, security & conservation and Fossil fuel exploration and Development.

The Ministry's presentation included proposals to amend the bill by moving the whole of Part V of the Energy Bill, 2017 to the Petroleum (Exploration, Development and Production) Bill, 2017. Part V of the Energy Bill, 2017 deals with the provisions on Midstream and Downstream petroleum sector which ideally should be in the Petroleum (Exploration, Development and Production) Bill, 2017.

2) Council of Governors- COG

The COG is an inter-governmental body established under Section 19 of the inter-governmental Act. Its mandate is to provide a platform for a coordinated action approach between the two levels of governments.

The submissions from COG address the need to provide an effective and meaningful consultation framework, between two levels of governments on matters related to exploration of natural energy resources found in the Counties e.g. geothermal and coal resources. Secondly, it reiterates the need for increase the percentage local community share of revenue share as provided in the Section 34 (3) b of the Energy Bill, 2017 arising from exploration of energy resources from current 5% to 10%.

3) Kenya Private Sector Association-KEPSA

KEPSA is the apex body of the private sector which focuses on advocacy on behalf of the private sector in respect to high level national cross-cutting issues.

KEPSA submissions are focused on proposing amendments expected to help nature an appropriate governance and institutional framework that shall guarantee a predictable investment climate in the capital intensive energy sector, provision to consolidate licenses/permits to improve ease of doing business in Kenya and the review of penalties regime in the Bill to provide for a penalty ceiling not the penalty floor as currently in the Bill.

4) Kenya Oil and Gas Association-KOGA

KOGA is an association established in 2012, whose membership comprises of industry players in the upstream oil and gas sector. The objective of the association is to create awareness on the upstream oil and gas industry.

KOGA's proposed amendments seek to reduce/consolidate the many statutory licenses created in the Bill and provide for transitional and savings clauses that are geared at ensuring a predictable business climate for the sector among others.

5) The Natural Justice

The Natural Justice is non-profit organization that comprises of community lawyers who specialize in conducting comprehensive research on environmental & human rights matters to enable their engagement in key national and international process. They offer

support to communities impacted by every increasing demand of land and natural resources.

The organization's submissions are purposed to; enhance provisions on protection of community rights on natural resources, enhance public participation on several process as provided in the Bill, provide for alignment of this Bill with Mining Act, 2016 when necessary and finally provide for strict compliance with protection of environment among others.

6) Turkana County Assembly and Turkana County Government

Turkana County government's submissions seek to address; the definition of a "local community" as provided in the bill. their reservation to the formula to be used to manage sharing of revenues between national and county governments, need to delete the proposed revenue sharing "caps" proviso in revenue sharing framework between National and County government, enhancement of the share of revenue meant for local community as provided in Section 84 (3) b from current 5% to 10%, expand the provision on local content in the Bill.

7) Keekonyokie Community (Narok County)

Keekonyokie community comprises of people who are residents of Narok East sub-county. The Community submitted on the need to make proper provisions in the Bill to guide/restrict the access to private/trust land for purposes of exploration of natural energy resources, the need to review penalties related to removal/interference of survey beacons, need to have provisions for compensation for loss of lives and destruction of the environment resulting from investor's operations, community representation in the Renewable Energy Advisory Committee and the enhancement of share of royalties by the Local community and County government from the current 5% and 20% to 15% and 30% respectively.

8) Anjarwalla & Khana Associates

Anjarwalla & Khanna (A&K) is the largest corporate law firm in Eastern Africa, with over 90 lawyers, and is generally considered the leading full-service corporate law firm in Kenya. A&K is the founding member of Africa Legal Network (ALN), Africa's widest and most integrated legal alliance of independent top-tier

In its submissions A&K enhance provisions on enhance public participation on several process as provided in the Bill, protection of community rights on natural resources, need

to have stricter abandonment clauses and finally provide for strict compliance with protection of environment among others submissions.

9) African Centre for Technology Studies-ACTS

This is an intergovernmental non-profit organization founded in 1988 by Prof. Caletous Juma to promote policy-oriented research on science and technology in development that is sustainable to the economy, society and environment.

ACTS submitted that the Bill must provide for promotion of domestic capabilities by promoting local actors, building strong innovation systems, building of industrial manufacturing base and focus on research among other submissions.

10) Conservation Alliance of Kenya (Kenya Society of East Africa on Wildlife)

This is a limited liability membership organization registered in Kenya as an umbrella body to advance the preservation, protection and management of wildlife and its habitats.

In its submissions, the alliance proposes amendments to section 206(1) to exempt protected areas e.g. forests, rivers, parks, government properties, streets, canals from being used to host energy and oil infrastructure facilities. Secondly the Alliance proposes the introduction of new clauses in the Bill to entrench the provisions of EMCA Act, 2015, Wildlife Act, 2013, Forest Act 2016 and Wetlands Policy 2016 among other legislation.

11) Members of Parliament from Ukambani Region

Several Members of Parliament from Ukambani submitted their memorandum on the Energy Bill, 2017. In their submissions, the Members sought to amend among other things: local community share in terms of royalties to be increased from current five (5) percent to ten (10) percent of the National Government share; to make provision that prior to the production of coal, land adjudication should be undertaken in terms of determining and authenticating ownership of land through issuance of title deeds to the members of the local communities; and to put a requirement that the Government and licensees/investors to undertake corporate social responsibilities projects including supply of water in areas where the coal is being produced.

Hon. Speaker,

In addition to receiving the written memoranda from the public and stakeholders, the Committee held public hearings in the following counties to receive oral submissions from general public. Annexed herein are the reports.

- 1) Turkana County (Turkana East, Turkana Central and South sub counties)
- 2) Nakuru County (Menengai ,Bahati, Nakuru County Assembly, Naivasha)
- 3) Narok County (Suswa ward)
- 4) Muranga County (Mathioya Constituency)
- 5) Nairobi County (County Hall-Parliament Buildings)
- 6) Lamu County (Kwasasi, Pate and Lamu Fort Hall)

Hon. Speaker,

While the Committee was conducting the public hearing in the above mentioned counties the Committee noted the following submissions among others:

1) Trust fund:

That, in establishing the "Trust fund" which shall managed by a Board of trustees established by the county government in consultation with the local community, the Cabinet Secretary responsible for energy should be granted the authority to approve and gazette names of proposed composition of Board of Trustees which county Government will submit to him/her after consultation with local community.

2) Corporate Social Responsibility;

The National government through legal framework must monitor the Companies & firms that are granted licenses to undertake the exploration activities to ensure that they actively engaged in providing back to the relevant communities they operate in by providing such like services like water, education to local students through sponsorship and health care.

3) Environmental Degradation:

Soil erosion and pollution are some of the negative effects brought by drilling and exaction of oil. The risk of oil spills might lead to serious soil degradation resulting to ecological devastation. Other negative effects of oil drilling are as follows; air pollution, wildlife migration, seismic problems and acoustic. Therefore there is need to provide punitive measures for any violators of the law.

4) The Local community and Local Content :

While defining local community there is need by the Committee to consider a more encompassing definition that shall ensure inclusivity and avoid situation where non-indigenous residents of a community are discriminated in benefit sharing

It was further proposed the word "a" be deleted in the current definition of "**local community means a people living in a sub-county within which a petroleum resource under this act is situated and are affected by the exploration of that petroleum resource**"

The local content plan in any venture should be shared so that the available opportunities are known to the public in order to address skills gaps by focusing on training opportunities especially for the local residents.

5) Benefit sharing

Despite the enormous revenues arising from exploration of oil and geothermal resources, this resources are currently found in poverty afflicted counties. Therefore Committee was requested to consider the enhancing the percentages share of revenues for the county and local community to enable the communities received enhanced resources to spur development as the counties play catch-up with the rest of counties.

6) Access to land:

The natural resource exploration and extraction is fast growing with influx of licensed oil and gas companies. This intensified explorations has resulted in well pads being fenced off, denied access for the already reduced grazing areas and interference in animal integrated routes as well as increased land disputes among the Turkana people of different kraals and clanism.

7) Commercial Production Agreements

There is need for public participation and full disclosure of agreement on exploration blocks and vetting of contracts to ensure value for money for the country.

8) Recognition of the Indigenous People

There is need to recognize the Indigenous People where the oil extractives have been discovered, law defines locals or aboriginal people of that particular land. This will cure migration of people from other parts of the Country hence posing a risk to the preservation of culture and heritage. This Recognition will be in form of consulting and accommodating the aboriginal people before commencing any kind of resource projects that affects their territory

9) Community resistance to Investors



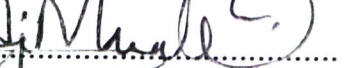
Residents of Kwasasi in Lamu County took issues with some of civil societies in the area "Save Lamu" who are opposed to the installation of the Coal plant in Lamu. They argued that, they are direct beneficiaries if the project therefore, it would be wrong for NGO to create the impression that the Lamu residents were opposed to the project

10) Loss of livelihoods for Pastoralists

The favourable grazing area for livestock has been fenced by well pods for exploration and the vegetation covers affected by trucks for seismic procedures. This measures cause death of many livestock as well as destroying the holding grounds for livestock.

1.4 Adoption of the Report

We the members of the Departmental Committee on Energy have pursuant to Standing Order 199 adopted this Report on the Energy Bill, 2017 and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today Thursday 5th April, 2018:-

1. The Hon. David Gikaria, M.P. -Chairperson 
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chair 
3. The Hon. Cecily Mbarire, M.P. 
4. The Hon. Ekomwa Lomenen James, M.P. 
5. The Hon. Joseph Wathigo Manje, M.P. 
6. The Hon. Lemanken Aramat, M.P. 
7. The Hon. Oscar Sudi, Kipchumba, M.P. 
8. The Hon.(Eng.) Vincent Musyoka Musau, M.P. 
9. The Hon. Amina Gedow Hassan, M.P 
10. The Hon. Abdikhaim Osman Mohamed, M.P. 
11. The Hon. Clement Muturi Kigano, M.P. 
12. The Hon. Elisha Odhiambo, MP 
13. The Hon. Elsie Muhanda, MP 
14. The Hon. Gitau Faith Wairimu, M.P. 
15. The Hon. Julius Musili Mawathe, MP 
16. The Hon. Ken Chonga, MP 
17. The Hon. Tindi Nicholas Mwale, MP 
18. The Hon. Walter Owino, MP 
19. The Hon. Mohammed Ali Lokiro, MP 

1.5 Acknowledgment

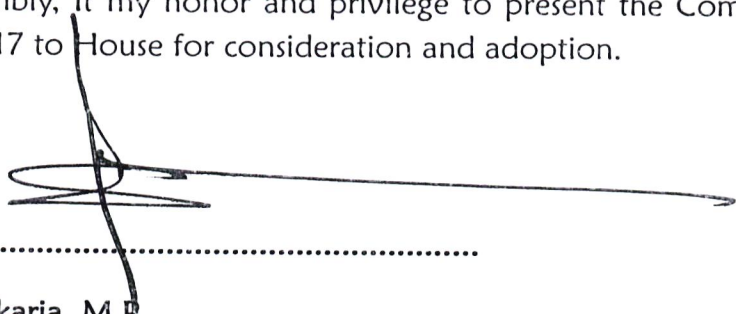
Hon. Speaker,

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support and services extended to the Members to enable the Committee complete this report within the given timelines.

I am grateful for the Members of the Committee whose support enabled the Committee to accomplish this task. Special thanks to the Secretariat for their technical support during the compilation of the report.

On behalf of the Committee, and pursuant to Standing Order No. 127 (4) of the National Assembly, It my honor and privilege to present the Committee Report on the Energy Bill, 2017 to House for consideration and adoption.

Thank you



Signed.....

Hon. David Gikaria, M.P

CHAIRMAN DEPARTMENTAL COMMITTEE ON ENERGY

DATE 10th Apr, 2018

2.0 Committee's Consideration of the Energy Bill, 2017

2.1 Background

Hon. Speaker,

The Ministry of Energy is responsible for policy formulation in the; exploration, development and sustainable use of energy sources; Rural electrification program; Renewable Energy promotion & development; Energy regulation, security & conservation and Fossil fuel exploration and Development.

Currently the sector is guided by among other legislation, the Energy Act, 2006, Geothermal Resources Act, 1982, Kenya Energy Generation Company Act-Cap 486, Kenya Power and Lighting Act -Cap 486, Kenya Electricity Transmission Company Act, Rural Electrification Authority Act, Energy Regulation Commission Act 2006. These legislations provides for the management, development, conservation, exploitation and utilization of the energy resources

2.2 Committal of the Energy Bill, 2017

Hon. Speaker,

The Energy Bill, 2017 underwent first reading on 14th February, 2018 and thereafter committed to the Committee on Energy as provided for in the Standing order 127(1).

However, while the Committee was considering the Bill it become apparent that the time provided to consider the Bill as per the Standing orders (S.O 127 (5)) would not be enough for Committee to adequately engage the Public through the public hearings and therefore the Committee sought from the Speaker an extension of the period to consider the Bill by another 21 days which was granted by the House on Tuesday 13th March, 2018.

2.3 Objectives of the Bill

The Bill seeks to consolidate the laws relating to energy, align the legal and regulatory framework of the energy sector with the Constitution of Kenya, 2010. It does this by setting out with clarity the specific roles of national and County Government in relation to Energy.

The Bill proposes to repeal the Energy Act No.12 of 2006 and Geothermal Resources Act No.12 of 1982 of laws of Kenya.

The Bills consist of the following parts

PART	SUBJECT
Part I	Preliminaries
Part II	Provisions for Energy Policy and Integrated Energy Plan
Part III	Provisions for National Energy Entities
Part IV	Provisions for Renewable Energy
Part V	Provisions for Midstream and Downstream Petroleum
Part VI	Provisions for Downstream Coal
Part VII	Provisions for Electrical Energy
Part VIII	Provisions for Rights of Way, Way leaves and Use of Land for Energy Resources and Infrastructures
Part IX	Provisions for Energy Efficiencies and Conservation
Part X	Miscellaneous Provisions
Part XI	Provisions for Repeal, Savings and Transitional provisions

2.4 Public Participation

Hon. Speaker,

Article 118(1) (b) of the Constitution provides that “Parliament shall facilitate public participation and involvement in the legislation and other business of the Parliament and its Committees.” Standing Order 127(3) of the National Assembly Standing Orders provides that “the Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the committee makes its report to the House.”

Arising from the foregoing the Committees, placed a notification in the two mainstream print media on 22nd February ,2018 informing the public that the Committee was

considering the Energy Bill, 2017 and invited them to submit any representation they might have on the Bill.

The Committee received written memoranda and submissions from a total of 14 organizations/individuals for which the Committee proceeded to consider. The written submissions were received from the among other organizations/individuals:-

- 1) Council of Governors-COG
- 2) Kenya Private Sector Association-KEPSA
- 3) Kenya Oil and Gas Association-KOGA
- 4) The Natural Justice
- 5) Turkana County Assembly and Turkana County Government
- 6) Keekonyokie Community (Narok County)
- 7) African Centre for Technology Studies-ACTS
- 8) Conservation Alliance of Kenya (Kenya Society of East Africa on Wildlife)
- 9) Turkana University and College students association
- 10) Nakuru & Narok County Governments

Hon. Speaker,

In addition to receiving the written memoranda from the stakeholders, the Committee held public hearings in the counties mentioned below to receive oral submissions from general public and whose reports are annexed to this report.

- 1) Turkana County (Turkana East and South sub counties)
- 2) Nakuru County (Menengai ,Bahati, Nakuru County Assembly, Naivasha)
- 3) Narok County (Suswa ward)
- 4) Muranga County (Mathioya Constituency)
- 5) Nairobi County (County Hall-Parliament Buildings)
- 6) Lamu County (Kwasasi, Pate and Lamu Fort Hall)

Hon. Speaker,

While undertaking the public hearings in the above mentioned counties the Committee highlights the following as the key submissions among others:-

The Committee held meetings with the several stakeholders including the Ministry of Energy to deliberate on pertinent issues that the Bill was seeking to address. Among the stakeholders held meetings with are:-

- 1) Ministry of Energy
- 2) Council of Governors-COG
- 3) Kenya Private Sector Association-KEPSA
- 4) Kenya Oil and Gas Association-KOGA
- 5) The Natural Justice
- 6) Turkana County Government and Turkana County Assembly
- 7) County Government of Nakuru and Narok
- 8) Association of Oil & Gas Transporters
- 9) African Centre for Technology Studies-ACTS
- 10) Conservation Alliance of Kenya (Kenya Society of East Africa on Wildlife)
- 11) Nature Kenya
- 12) Oil & Gas Contractors Association of Kenya

3.0 Submissions by Stakeholders on the Energy Bill, 2017

3.1 Submissions by Natural Justice Kenya Org.

The Natural Justice organization while appearing before the Committee on Thursday 22nd March, 2018 in County Hall Parliament Buildings submitted as follows;

CLAUSE	ENERGY BILL, 2017 CLAUSE IN THE BILL	STAKEHOLDER'S PROPOSED AMENDMENT	RATIONALE
2	"local community" means a people living in a sub-county within which an energy resource under this Act is situated and are affected by the exploitation of that energy resource;	"local community" means a consciously distinct and organized group of users of land who are citizens of Kenya and share any of the following attributes— a) common ancestry; b) similar culture or unique mode of livelihood; c) socio-economic or other similar common interest; d) geographical space; e) ecological space; or f) ethnicity, restricted to a sub- county or counties within which an energy resource under this Act is situated and are affected by the exploitation of that energy resource.	The amendment seeks to align the definition of the term "local community" to that of the community land Act and Article 66 of the Constitution. The amendment widens the scope of what a local community is. The definition proposed should include people living within sub-counties where energy resources are located and people who use the land from time to time. This will cater for pastoralist and nomadic communities who may not necessarily live in the area but use the land depending on the season of the year.
6	National Energy Policy 6. Within three months after the end of each financial year, the Cabinet Secretary shall prepare and publish a report on the implementation of the national energy policy.	6. Within three months after the end of each financial year, the Cabinet Secretary shall prepare and publish a report on the implementation of the national energy policy " outlining progress on specific areas and parameters ".	A report on specific progress against key parameters will enable implementation on energy reforms to be measured against specific targets set out under the national energy policy such as access to clean energy; functioning of energy markets; interconnection and

			integration of energy networks.
72	<p>Vesting of renewable energy resources</p> <p>72. All unexploited renewable energy resources under or in any land vests in the National Government subject to any rights which, by or under any written law, have been or are granted or recognized as being vested in any other person.</p>	<p>Amend the clause by inserting the words "and is administered on behalf of the people of Kenya"</p> <p>72. All unexploited renewable energy resources under or in any land vests in the National Government <i>and is administered on behalf of the people of Kenya</i> subject to any rights which, by or under any written law, have been or are granted or recognized as being vested in any other person.</p>	<p>The Bill provides that all renewable energy resources vest in the national government. The Constitution of Kenya, 2010 in Article 62 (2) states that public land vests in the National Government (County government) and is administered on behalf of the people of Kenya.</p>
76	<p>Geothermal resources vested in the National Government.</p> <p>All un-extracted geothermal resources under or in any land shall vest in the National Government.</p>	<p>Amend the clause by inserting the words "administered on behalf of the people of Kenya"</p> <p>76. All un-extracted geothermal resources under or in any land shall vest in the National Government and shall be <i>administered on behalf of the people of Kenya</i></p>	<p>To align the Bill to Article 69 which obligates the state to utilise the environment and natural resources for the benefit of the people of Kenya.</p>
121	<p>121</p> <p>Regulations for downstream petroleum</p>	<p>Insert a new paragraph (d)</p> <p>(d) Prescribing the type of information available to the public under the Access to Information Act, 2016 and the procedure for ensuring public participation in the decision in the Downstream Petroleum Sector.</p>	<p>Provide for the Cabinet Secretary to make regulations concerning the dissemination of information and public participation with regards to Downstream Petroleum.</p>
126	<p>(1) The Commission shall, in granting or rejecting an application for a licence or permit, take into consideration—</p> <p>(a) the impact of the undertaking on the social, cultural or recreational life of the community;</p>	<p>Inserting the words-</p> <p>Clause 126 (1) (a): "including whether the affected community is a marginalized community" immediately after the word "community."</p>	<p>To expand the scope on the factors to be considered in reviewing an application.</p>

	(f) economic and financial benefits to the country or area of supply of the undertaking;	Insert the words- Clause 126 (1)(f): "including the microeconomic impact to the locality" immediately after the words "undertaking"	
133	<p>Register of licences and permits</p> <p>133(1) The Commission shall keep a register, in such form as it may determine, of all licenses and permits granted and shall record therein, in respect of each licence or permit—</p> <p>(a) the particulars required under sections 124 and 128;</p> <p>(b) particulars of any duplicate issued or any amendment of the licence or permit made under sections 125 and 131;</p> <p>(c) particulars of any suspension or revocation of the licence or permit under section 130 and 136; and</p> <p>(d) Such other particulars as may be prescribed.</p>	<p>Insertion</p> <p>Clause 133 (4).The Commission shall maintain a register of license and permits of licenses on its website.</p>	The amendment seeks to align the Bill to the Access to information Act, 2016 in section 5 (3) (c).
142	<p>Compliance with environmental, health and safety laws</p> <p>(2) In the event of a fire, explosion, injury or fatality occurring in the course of operating a facility for energy production using coal, either by accident or through negligence, the operator of the facility shall forthwith clean up the polluted or damaged environment, at the operator's own expense,</p>	<p>Insert the new words- "of the licensing authority and the National body in charge of environmental management"</p> <p>(2) In the event of a fire, explosion, oil spill, injury or fatality occurring in the course of operating a petroleum logistics facility, transportation or sale of petroleum, either by accident or through negligence, the operator or person transporting or selling the petroleum shall forthwith clean up the polluted or damaged</p>	It is vital that NEMA is included as it is the authority in charge of ensuring compliance with environmental legislation as well as the body staffed with relevant experts. Further the precautionary principle and polluter pays principle shall be applied in the event of pollution regardless of whether or not it is accidental.

	to the satisfaction of Commission	environment, at the operator's own expense, to the satisfaction <u>of the licensing authority and the National body in charge of environmental management.</u>	
144	<p>Regulations for use of coal for energy production</p> <p>144 (1) Without limiting the generality of section 236, the Cabinet Secretary may, on the recommendation of the Commission, make regulations for the use of coal for energy production relating to—</p> <p>“(e) environmental, health and safety standards associated with the handling, storage and use of coal;</p> <p>(h) development and coordination of a National coal pollution response plan including measures to prevent coal pollution and a mechanism for compensation in the event of a coal pollution;</p>	<p>(e) environmental, health and safety standards associated with the handling, transportation, storage and use of coal <u>in collaboration with the National Environmental Management Agency, the Ministry of Health and the Council of Governors</u></p> <p>(h) development and coordination of a National coal pollution response plan including measures to prevent coal pollution and a mechanism for compensation in the event of coal pollution <u>in conjunction with the National Environmental Management Agency and the Council of Governors</u></p> <p>insertion</p> <p>(m) public participation and access to information regarding coal extraction and the usage of coal for energy production</p> <p>(n) Citizen participation in monitoring and enforcement</p>	<p>The proposed amendment seeks to involve other stakeholders in the making of regulations relating to the use of coal for energy production.</p> <p>It also seeks to introduce the aspect of public participation, access to information and citizen participation in the use of coal for energy production.</p>
199	<p>(1) A person who wishes to enter upon any land, other than his own to—</p> <p>(b) carry out a survey of the land for the purposes of paragraph (a);</p> <p>shall seek the prior consent of the owner of such land, which consent shall not be unreasonably withheld:</p> <p>Provided that where the owner cannot be traced, the applicant shall give fifteen days' notice, by</p>	<p><i>(b) carry out a survey of the land for the purposes of paragraph (a); shall seek the prior and <u>informed consent of the owner of such land, which consent shall not be unreasonably withheld</u></i></p> <p><i>Provided that where the owner cannot be traced, the applicant shall give fifteen days' notice, by public advertisement, in at least two newspapers of nationwide circulation, <u>an announcement in a radio station of local coverage for a period of two successive weeks and a notice in the Kenya Gazette</u></i></p>	<p>The amendment seeks to ensure adequate public participation.</p>

	public advertisement, in at least two newspapers of nationwide circulation.		
201(3)	<p>(3) Where the owner of the land cannot be traced the applicant shall give thirty days' notice prior to the development of energy infrastructure on the land by way of public advertisement in at least two newspapers of nationwide circulation:</p> <p>Provided that no development shall commence unless the amount of compensation payable, if any as determined by the relevant government agency responsible for the management of that land, has been deposited into a special compensation fund held by the said agency.</p>	<p><i>Where the owner of the land cannot be traced the applicant shall give thirty days' notice prior to the development of energy infrastructure on the land by way of public advertisement in at least two newspapers of nationwide circulation <u>an announcement in a radio station of local coverage for a period of two successive weeks and a notice in the Kenya Gazette</u></i></p> <p>Provided that no development shall commence unless the amount of compensation payable, if any as determined <u>by the National Land Commission in conjunction with a representative of the Governor of the relevant County</u>, has been deposited into a special compensation fund held by the said agency.</p>	The amendment seeks to task the National Land Commission in consultation with a representative of the Governor of the relevant County, with receiving the compensation as envisaged under section 201 (3)
204(2)	(2) Where energy infrastructure is removed, the surface of the land shall forthwith be restored to its former condition as far as possible and in default thereof restoration may be carried out by the owner of the land, and the costs thereof shall be recoverable from the licensee.	(2) Where energy infrastructure is removed, the surface of the land shall forthwith be restored to its former condition as far as possible and in default thereof restoration SHALL be carried out by the licensee.	The amendment seeks to remove alleviate the burden imposed on the owner to restore land to its former condition. This is informed by the fact that the provision can potentially be unfair to communities who would be required to restore community land.
209(1)	<p>Declaration of energy resource areas</p> <p>(1) The Cabinet Secretary may, subject to the</p>	The Cabinet Secretary may, subject to the provisions of subsection (3) and having taken into consideration of the	The amendment proposes to include the National Land Commission as an agency that the Cabinet Secretary may

	<p>provisions of subsection (3) and having taken into consideration the recommendations made by the implementing agencies that any area is suitable for the conservation and management of energy resource or is suitable for the promotion of energy development projects, by order published in the <i>Gazette</i>, declare such area as an energy resource area.</p>	<p>recommendations <u>made by the National Land Commission</u> and other implementing agencies that an area is suitable for the conservation and management of energy resource or is suitable for the <i>promotion of energy development projects, by order published in the Gazette, declare such area as an energy resource area.</i></p>	<p>consult before declaring any area an energy resource area.</p>
<p>244</p>	<p>Consolidated Energy Fund</p> <p>244.(1) The Cabinet Secretary shall establish the Consolidated Energy Fund to cater for—</p> <p>(a) strategic petroleum reserve;</p> <p>(b) energy sector disaster mitigation and response;</p> <p>(c) hydro risk mitigation;</p> <p>(d) operations of the Agency;</p> <p>(e) promotion of renewable energy initiatives;</p> <p>(f) construction of appropriate energy infrastructure;</p> <p>(g) decommissioning of energy infrastructure; and</p> <p>(h) Energy efficiency and conservation.</p>	<p>Insert a new paragraph to read as:</p> <p>“(i) support of a sustainable biodiversity, environmental impact monitoring system and impact and offset mitigation measures.”</p>	<p>Energy sector initiatives may cause serious environmental impacts arising from effects of climate change and natural catastrophes, among others. These impacts are not fully anticipated during the SEA and EIA development process.</p>

3.2 Submission from KEPSA and KOGA

While appearing before the Committee on Thursday 22nd March, 2018 in County Hall, Parliament Buildings the Kenya Private Sector Alliance submitted as follows;-.

CLAUSE	ENERGY BILL, 2017 CLAUSE IN THE BILL	STAKEHOLDER'S PROPOSED AMENDMENT	RATIONALE
2	Insertion of a new definition	"renewable energy auction system" means competitive bidding that allows unbiased price discovery with the objective greater cost efficiency for electricity from renewable sources	Inclusion of the definition of auction system as the insertion of the auction system has been proposed in section 90.
4	(2) Within three months after the end of each financial year, the Cabinet Secretary shall prepare and publish a report on the implementation of the national energy policy.	Insert a new clause to read as: (3) The Report on implementation of the national energy policy shall be published in at least one national newspaper in a form that the Cabinet Secretary shall consider prudent	Publication of this report in the media will help create awareness and public discourse on key issues
4	National Energy Policy (1) The Cabinet Secretary shall develop and publish a national energy policy which shall be reviewed every five years.	Insert the words " in consultation with the relevant stakeholders" immediately after the words " Cabinet Secretary shall"	The proposed national energy policy would undoubtedly have implications on all participants in the energy sector. Before implementing the national energy policy, the private sector and other stakeholders views should be obtained before the policy is published.
5	5 (4) The Cabinet Secretary shall consolidate the plans contemplated in subsection (2) and (3) into an integrated national energy plan which shall be reviewed regularly.	Section 5(4) "The Cabinet Secretary shall consolidate the plans contemplated in subsection (2) and (3) into an integrated national energy plan which shall have a planning horizon appropriate to the nature of the service and shall be reviewed at least once every three years "	It is recommended to prescribe a timeline for the integrated energy plans contemplated under section 5 (4). This will ensure that specific milestones can be established for review within the specified timeline and at regular rests.

8	<p>Promotion of energy investments</p> <p>(1) The Cabinet secretary shall develop a conducive environment for the promotion of investments in energy infrastructure development, including formulation of guidelines in collaboration with relevant County agencies on development of energy Projects and to disseminate them among potential investors”</p>	<p>(1) The Cabinet Secretary shall develop a conducive environment for the promotion of investments in energy infrastructure development, including formulation of incentives and guidelines in collaboration with relevant County agencies on development of energy Projects and to disseminate them among potential investors”</p>	<p>There is need to make specific provision for incentives to facilitate Private Sector investment in energy infrastructure</p>
12	<p>(1)The management of the Commission shall vest in the Board of Directors of the Commission consisting of—</p> <p>(d) five other members not being public officers appointed by the Cabinet Secretary.</p>	<p>Section 12: The management of the Commission shall vest in the Board of Directors of the Commission consisting of—</p> <p>(d) five other members appointed by the Cabinet Secretary to represent the Private Sector with experience on energy matters and nominated by the most representative Private Sector body in Kenya.</p>	<p>It is necessary to allow the Private Sector nominate names for appointment by the Cabinet Secretary to ensure an inclusive management team that draws in participation from the government and the Private Sector.</p>
26	<p>Members of the Energy and Petroleum Tribunal</p> <p>26 (1) The Tribunal shall consist of not more than seven members as follows —</p> <p>(a) a Chairperson and vice Chairperson who shall be of opposite gender, nominated by the Judicial Service Commission from among persons qualified to be judges of the High Court possessing at least five years’ experience in energy and petroleum;</p>	<p>By deleting the word “vice chairperson”</p>	<p>While the Bill indicates that the President shall appoint the Chair and Vice Chair of the Tribunal, the practice is for the vice chair to be a person of the opposite gender and appointed by fellow members at the first sitting of the Tribunal.</p>

<p>43</p>	<p>43 (1) (k) formulate, in conjunction with the Institute, a national strategy for coordinating research in renewable energy;</p> <p>43 (1) (l) undertake, in conjunction with the Institute, research, development and dissemination of appropriate renewable energy technologies;</p>	<p>Delete the word “institute” and substitute therefor the word “Agency”</p>	<p>It is a typographical error. The Energy Bill (2017) replaced the Energy Bill (2015) that created the Energy and Petroleum Institute, where the Institute was renamed to the Nuclear Power and Energy Agency. (see side heading of s.61 – Conduct of business of the Agency and s.2 on definition of agency)</p>
<p>43</p>	<p>43 (j), develop and promote, in collaboration with other agencies, the use of renewable energy and technologies, including but not limited to biomass, biodiesel, bio-ethanol, charcoal, fuel-wood, solar, wind, tidal waves, small hydropower, biogas, cogeneration and municipal waste, but excluding geothermal;</p> <p>43 (n) promote, in conjunction with the agency responsible for forests, the use of fast maturing trees for energy production including bio-fuels and the establishment of commercial woodlots including pen-urban plantations;</p> <p>43 (o) promote, in collaboration with other agencies, the development of appropriate local capacity for the manufacture, installation, maintenance and</p>	<p>Delete the word “charcoal”</p> <p>Delete Section 43 (n)</p> <p>Delete the word “turbines” and substitute therefor the words “wind energy converters”</p>	<p>Wood contributes significantly to respiratory health problems faced by women in rural areas and urban slums and Kenya is suffering from a depletion of forest resources and it is inappropriate to encourage more cutting of trees for energy. The focus should be on encouraging cleaner cooking alternatives such as LPG.</p> <p>There is a need to promote a shift to modern, clean and sustainable energy sources and not actively promote woody biomass.</p> <p>The provisions are related to renewable energy – use of turbine is too general.</p>

	operation of renewable technologies such as bio-digesters, solar systems, turbines and other renewable energy technologies;		
69	Funds of the Agency The funds of the Agency shall comprise- (b) funds from the Consolidated Energy Fund;	Delete Section 69 (b)	The provisions in Section 69 (b) will increase the cost of doing business. The Authority should draw its funding from moneys voted by the National Assembly.
74	Promotion of renewable energy 74(1) The Cabinet Secretary shall promote the promotion of development and use of renewable energy technologies, renewable energy including but not limited to biomass, biodiesel, bioethanol, charcoal, fuelwood, solar, wind., tidal waves, hydropower, biogas and municipal waste. 74 (2) (b), providing an enabling framework for the efficient and sustainable production, distribution and marketing of biomass, solar, wind, small hydros, municipal waste, geothermal and charcoal; 74 (2) (c) promoting the use of fast maturing trees for energy production including biofuels and the establishment of commercial woodlots including pen-urban	Delete the words “ charcoal, fuel wood” Deleting the words “ and charcoal” Delete Section 74 (2)(c)	Wood contributes significantly to respiratory health problems faced by women in rural areas and urban slums and Kenya is suffering from a depletion of forest resources and it is inappropriate to encourage more cutting of trees for energy. The focus should be on encouraging cleaner cooking alternatives such as LPG.

	<p>plantations;</p> <p>74 (2) (h) promoting the utilization of renewable energy sources for either power generation or transportation;</p> <p>74(2) (j) promoting the production and use of gasohol and biodiesel</p> <p>74(2) (e) promoting the development of appropriate local capacity for the manufacture, installation, maintenance and operation of basic renewable technologies such as bio-digesters, solar systems and turbines;</p>	<p>Deleting paragraphs (h) and (j) and substituting therefor the following-</p> <p>74(2) (h) promoting the utilization of renewable energy sources for either power generation or transportation and the built environment;</p> <p>74(2) (j) promoting the production and use of alcohols and biofuels for transportation and other uses.</p> <p>Delete the word “turbines” and substitute therefor the word “energy converter”</p>	<p>To include promotion of use of RE in buildings and in the C&I sector.</p> <p>There is a need to broaden the types of biofuels that will be promoted for use as transportation fuels. The biofuels sector is dynamic and different fuels are being researched which may offer innovative solutions. A more general reference to promotion of biofuels will allow industry to innovate.</p> <p>The provisions are related to renewable energy – use of turbine is too general.</p>
75	<p>Establishment of renewable energy resource advisory Committee</p> <p>(3) The Renewable Energy Resource Advisory Committee may co-opt such other members as they deem necessary but in any case not more than four members shall be co-opted.</p>	<p>Delete and replace-</p> <p>75 (3) “ The Renewable Energy Resource Advisory Committee shall co-opt at least two members with experience on energy matters from the Private Sector and nominated by the most representative Private Sector body in Kenya including representation from a nationally recognized renewable energy association or body.”</p>	<p>In view of the functions set out under S. 75 (4), it would be prudent to expand the composition of the committee to include Private Sector representation to reflect the voice of the Private Sector on issues like establishing the “ criteria for allocation of renewable energy resource”.</p>

78	<p>Cabinet Secretary to authorize search of geothermal resources (4) An Authority granted under this section shall not be transferable, and shall be in force for a period of one year from the date of issue, but may be renewed for a period of one year from the date of expiration thereof or from the expiration of any renewal.</p>	Delete the words “one year from the date of issue” and substitute therefor “not less than one year”	The one year period provided for by the Authority to dig a well needs to be extended because it is not sufficient yet it involves significant investment.
79	<p>Cabinet Secretary may grant a geothermal resources licence (1) The Cabinet Secretary on receiving an application for the extraction of geothermal resources in respect of any land, may, on the advice of the Commission, grant a licence over part or the whole of a geothermal resources area under such terms and conditions as the Cabinet Secretary may determine in accordance with Article 71 of the Constitution</p>	Delete the words “The Cabinet Secretary on receiving an application for the extraction of geothermal resources in respect of any land, may, on the advice of the Commission” and substitute therefor the words “ The Cabinet Secretary may, on receiving an application for the extraction of geothermal resources in respect of any land, and in consultation with the Renewable Energy Resource Advisory Committee ”	There is need for a clearer and elaborate mechanism that informs decision-making by the Cabinet Secretary on the grant of a geothermal resource licence. S. 78 (1) has vested exclusive power on the Cabinet Secretary to make a determination without reference to any advisory or oversight organ
84	<p>Royalty 84 (5) “ The Cabinet Secretary may, waive, suspend or reduce the royalty for any licensee in the interest of encouraging the greatest utilization of geothermal resources, if the Cabinet Secretary determines that this is necessary to promote development or that the licence cannot be successfully operated under the licence terms”</p>	Insert the words “ in consultation with the Renewable Energy Resource Advisory Committee ” immediately after the words “Cabinet Secretary may”	The power granted to the Cabinet Secretary under section 84 (5) to “waive, suspend or reduce the royalty for any licence” is open to abuse and could create undue conflict over the payment of royalties.

90	<p>Part IV of the Act – Renewable Energy</p> <p>Section 90</p> <p>Establishment of a Renewable Energy Feed in Tariff System</p>	<p>Insert a new clause- 90 (2) There is established a renewable energy auction system with the objective of—</p> <ul style="list-style-type: none"> (a) better planning for power capacity acquisition; (b) promoting transparency in the acquisition of renewable energy capacities; (c) ensuring efficient geographical distribution of renewable energy projects; and (d) inspiring investor confidence and achieving price discovery and reduction for renewable energy technologies. 	<p>Section 90 of the Act should deal with renewable energy . Feed in Tariff and the Auction system.</p> <p>Regulations on Renewable Energy Auction System (REAS) are under development by the MoE and are awaiting Cabinet Secretary’s approval for projects larger than 10 MW. REAS allows for competitive bidding that allows for price discovery and reductions and is the current international best practice.</p>
92	Regulations on renewable energy	<p>Insert the following new paragraph-</p> <p>(s)administration and implementation of the renewable energy auction system which may include-</p> <ul style="list-style-type: none"> (i) volume of auctions; (ii) qualification requirements to be met by bids in renewable energy auctions; (iii) auction procedure; (iv) winner selection process; (v) seller liabilities; (vi) frequency of auctions; and (vii) participating technologies. 	<p>Section 92(2) (a) to (r) does not adequately distinguish between the FIT and Auction System. There needs to be substantive provision in the statute for the establishment of the renewable energy auction system as proposed in section 92 (2) (s)</p>
144	<p>Insertion of a new subclause (2)</p> <p>Sharing of proceeds from exploitation of coal</p>	“(2) The Government’s share of proceeds raised from the exploitation of coal resources shall be deposited in a national	There is a need to ring fence revenue from coal (and other natural resources) from the overall funds held by the

	resource.	sovereign wealth fund.”	National Treasury. This will ensure that such funds can be managed more efficiently for posterity and not used in financing recurrent expenditure.
146	<p>Offence relating to carrying out unauthorized activity</p> <p>146. A person who carries out any electricity undertaking without a licence commits an offence and shall, on conviction, be liable to a fine of not less than one million shillings, or to a term of imprisonment not less than one year or to both such fine and imprisonment.</p>	By deleting the word “undertaking” and substituting therefor the words “ distribution generation ”	This provides clarity on the meaning and intent of S. 146 with regard to distribution of generated electricity
149	<p>Factors to be considered in an application.</p> <p>(2) The Commission shall process all applications for a licence within sixty days after the Commission confirms to the applicant, in writing, that the application is complete.</p>	By deleting the words “after the Commission confirms to the applicant, in writing, that the application is complete” and substituting therefor the following words “ during which period the Commission shall confirm to the applicant, in writing, that the application is complete ”	It is necessary to provide and clarify that 60 days is the maximum period within which, an application must be processed which includes confirmation to an applicant whether or not the application is in order. Having the 60 days period begin running after confirmation that the application is complete creates the risk of applications being delayed on account of administrative inaction in the absence of a clear time frame.
244		<p>Insert a new paragraph to read as-</p> <p>(i) applied research, technology development and innovation allied to energy sector including technology needs assessment, deployment and scaling up.</p>	This amendment seeks to take into account salient areas that have been left out of the Consolidated Energy Fund

3.3 Submission from Anjarwalla & Khana Associates

In a written memoranda MS. Anjarwalla & Khana Associates submitted as follows:-

CLAUSE	ENERGY BILL, 2017 PROVISIONS	PROPOSED AMENDMENTS BY STAKEHOLDERS	RATIONALE
5	Integrated national energy plan 5(1) The Cabinet Secretary shall develop, publish and review energy plans in respect of midstream and downstream petroleum, coal, renewable energy and electricity so as to ensure delivery of reliable energy services at least cost.	Insert the words “ in consultation with the relevant stakeholders ” immediately after the words “ Cabinet Secretary shall”	The integrated national energy plan would have several implications on the participants in the energy sector and Kenyans at large. The plan should be developed in consultation with the private sector and other stakeholders.
5	5(5) The energy plans shall— (b) serve as a guide for energy infrastructure investments;	Insert the words “ legislation and policies” immediately after the words “ a guide for” in paragraph (b)	The energy plans will be prepared by a national energy service provider and the county governments and may contain vital information that would form the basis for legislation and policies.
80 (2)	(2) Where any by-product obtained in the production of geothermal resources may be reclaimed for further use or sale and is a mineral within the meaning of the law governing mining, the licensee shall exploit the same without requiring an additional licence notwithstanding the provisions of any other written law.	(2) Where any by-product obtained in the production of geothermal resources may be reclaimed for further use or sale and is a mineral within the meaning of the law governing mining, the licensee shall extract and sell the mineral and shall apply for a mining license or permit under the Mining Act, 2016 within three months of discovering and extracting the resource, this application and sale shall be done in accordance with the provisions of other written law.	The Bill should state that the holder of the Geothermal Resource License should apply to extract the mineral on either a small scale or large scale basis and make an application as required in the Mining Act, 2016. The licensee, however, should only have the first option of extracting the mineral once they receive the Mining License or Permit and should pay royalties in accordance with the Mining Act.

91	(1) The Cabinet Secretary may upon recommendation of the Commission, make regulations necessary for the administration and implementation of the feed-in-tariff system.	The Cabinet Secretary shall within one year after commencement of the Act and may upon recommendation of the Commission, make regulations necessary for the administration and implementation of the feed-in-tariff system.	The Bill should contain a definite time period within which the Cabinet Secretary shall make recommendations. Suggested period should be one year after commencement of the Act. This will promote certainty in legislation and assist all actors to make proper decisions.
92	(2) Regulations may be made under this section for the following purposes— (a) prescribing any forms that may be required for the purposes of this Act; (b) prescribing conditions upon or subject to which authorities and licences may be applied for, granted or renewed; (c) providing for the keeping of records and the furnishing of information and returns by persons authorized by or under this Act, and prescribing the nature of the records, information, and returns and the form, manner and time in which they shall be kept or furnished; (d) prescribing matters in respect of which fees, rents and royalties are to be payable under this Act and the amount of fees and rents, and persons liable to pay them	<i>Insertion</i> “prescribing the type of information available to the public under the Access to Information Act, 2016 and the procedure for ensuring public participation in the decision to grant a Geothermal Resource License.”	There should be provision a sub-clause under Clause 92 providing for the Cabinet Secretary to make regulations concerning the dissemination of information and public participation with regards to Geothermal Energy Resources.
10	Functions of the Commission (1)The functions of the Commission shall be to—	Insert the words “and renewable energy” immediately after the words “nuclear facilities” in paragraph (a) (i).	All the functions stated in subparagraph (iii) fall within the activities in subparagraph (i) therefore delete

	(a) regulate— (i) generation, importation, exportation, transmission, distribution, supply and use of electrical energy with the exception of licensing of nuclear facilities; (iii) production, conversion, distribution, supply, marketing and use of renewable energy;	Delete subclause (1) paragraph (a) subparagraph (iii)	subparagraph (iii) and include the words “renewable energy” in subparagraph (iii)
11	Powers of the Commission 11. The Commission shall have all powers necessary for the performance of its functions under this Act and in particular, the Commission shall have the power to— (b) set, review and approve contracts, tariffs and charges for common user petroleum logistics facilities and petroleum products;	Insert a new paragraph immediately after paragraph (b) “(ba) set, review and approve incentives that encourage investments that take into consideration public interest.”	There needs to be a provision that mandates the Commission to use its powers in a manner that encourages investment while protecting the public and taking the public’s interest into consideration.
20	Funds of the Commission (1) The funds of the Commission shall consist of— (a) levies not exceeding one half of a percent on the sales of electricity and petroleum products;	Delete sub clause (1) (a) and substitute therefor the following— “(a) levies imposed at the discretion of the Cabinet Secretary;”	The proposed amendment should give the Cabinet Secretary the discretion to impose the levies as provided for under the Energy Act, 2006
22	Powers of Committees or agents	Insert a new subclause (7) (7) Any power exercised under this provision by a committee, member, officer, employee or agent appointed under section 21 shall be in accordance with the Constitution with respect to right to privacy and property	The powers exercised in clause 22 should be subjected to constitutional thresholds in Articles 31 and 40.

23	<p>Decisions of the Commission (1) The Commission shall within sixty days from the date of receipt of a request by an applicant, make its decision on any matter before it.</p>	Delete the word "sixty" and substitute therefor the word "thirty"	The commission has sixty days from the date of receipt of a request by an applicant to make a decision. The timeline should be reduced because a shorter period increases the ease of doing business and as such works to attract investors into the country.
32	<p>Arrangement of business (4) The rules of procedure of the Tribunal shall be published in the <i>Gazette</i>.</p>	Insert the words "by the chairperson" immediately after the words " in the Gazette"	Tribunals are usually crippled upon formation since it takes too long for the Cabinet Secretary to come up with rules of procedure. It will make sense for the Chairperson to publish the rules of procedure upon appointment.
35	<p>Remuneration</p>	Insert a new subclause “(3) The members to the Tribunal shall serve on a part time basis.”	The tribunal is unlikely to be busy to warrant full time employment. There is need to save funds by placing the members on part time basis.
36	<p>Jurisdiction of the Tribunal (1) The Tribunal shall have jurisdiction to hear and determine all matters referred to it, relating to the energy and petroleum sector arising under this Act or any other Act.</p> <p>(3)The Tribunal shall have original civil jurisdiction on any dispute between a</p>	Delete the words " or any other Act" Delete subclause (3)	This is in order to prevent conflict of laws and conflict of jurisdiction with other statutory body. It is noted that the intention that the tribunal will also have jurisdiction to hear under the proposed petroleum Bill,2017, it is the view that the petroleum Bill, rather than the energy Bill should contain provisions referring to disputes to the tribunal. The subclause expands the energy and petroleum tribunal jurisdiction and may capture contractual dispute a

	<p>licensee and a third party or between licensees.</p> <p>(4) The Tribunal shall have original civil jurisdiction on any dispute arising out of the bidding rounds carried out under the Upstream Petroleum law.</p> <p>(7) The Tribunal shall hear and determine matters referred to it expeditiously.</p>	<p>Delete</p> <p>Delete the word “expeditiously” and substitute therefor the words “within thirty days”</p>	<p>licensee and third party or between licensees which is not the intention.</p> <p>The subclause should originate in the Petroleum Bill, 2017.</p> <p>There is need to have a reasonable time limit to hear and determine matters. Proposed thirty days to be sufficient.</p>
38	<p>Procedure of the Tribunal</p> <p>(3) The Tribunal shall conduct its proceedings without procedural formality but shall observe the rules of natural justice.</p>	<p>Insert the words “and rules of evidence of a similar nature” immediately after the words “natural justice.”</p>	<p>This inclusion that the rules of Evidence Act similar to the rules of natural justice be observed. It would be an injustice if hearsay evidence is admitted in such complex and high value dispute.</p>
41	<p>Any reference that has been made to the court.</p> <p>The Tribunal shall have appellate jurisdiction to hear and determine appeals to all disputes arising from decisions of the Commission or licensing authority relating to energy matters and any matter referred to the Commission or any licensing authority.</p>	<p>Insert the words “under this Act” immediately after the words “any licensing authority”</p>	<p>This is to prevent any conflict of laws or conflicts with other statutory bodies</p>
73	<p>Preparation of resource maps and renewable energy resources inventory</p>	<p>Delete the word “biennially” and substitute therefor the word “annually in subclause (2)</p>	<p>Having only one –off countrywide survey is not efficient. Therefor there is need for a regular updated on the survey ordered by the CS. The update should be annually.</p>

75	Establishment of Renewable Energy Resource Advisory Committee (2) The Renewable Energy Resource Advisory Committee is composed of—	Insert a new paragraph immediately after paragraph (g)- “(h) Director-General of the Water Management Authority or his or her representative”	The inclusion of the DG water management authority as a member of the committee is to align the water resources regulator under the water Act with the objectives of the Committee
76	Geothermal resources vested in the National Government.	By deleting clause 76 and substituting therefor with the following new clause- 76. All un-extracted- (a) geothermal resources under or in any land; and (b) wind and hydro resources , Shall vest in the National Government.	Wind and hydro resources should be included into this category.
78	(4)	Insert the words “except with the express approval of the Commission” immediately after the words “ be transferable”	In energy projects, it is practice to have investors join into a project as soon as it is seen to be feasible. The amendment will enhance ease of doing business.
79	(3)Cabinet Secretary may grant a geothermal resources licence.	(3) The Cabinet Secretary in granting a licence under this section shall do so in an open, competitive and transparent manner.	It is unclear how the competitive issue of licenses will be undertaken by the Cabinet Secretary. The section should provide guidelines on how this process will be meted out.
80	Rights under license. (1) Without prejudice to Part VIII, a licence issued under section Error! Reference source not found. shall, subject to this Act, confer upon the licensee the right— (a) to enter upon the	Insert the words “ within the confines of this Act and other relevant laws”	The right should be subject to the land Act, the Land Registration Act; the Community Land Act; and the Land Control Act.

	land being the subject of the licence to sink a well and to extract geothermal resources and to do all such things as are reasonably necessary for the conduct of those operations;		
84	Royalty	Delete subclause (1) and substitute therefor the following new subclause(1)- (1) The licensee shall pay a royalty on the value at the wellhead of the geothermal resources extracted as prescribed by the Cabinet Secretary in consultation with the Commission.	This is in order to allow flexibility on the payments of royalty
88	Charges payable for extraction of geothermal resources for certain purposes (2) The Cabinet Secretary shall levy the prescribed fees, and rentals for the extraction of geothermal resources for industrial or commercial purposes in accordance with subsection (1).	Delete clause 88	It is unclear why there exist levies/ rentals to the government as well as royalties. Imposing many charges will hinder investment. The government should either impose royalties under section 84 of the Bill or charges under this section but not to both.
93	Requirements of licence for petroleum business. (3) (1) A person who wishes to— (a) undertake refining, importation, export, bulk storage or transportation of petroleum crude or products must have a valid licence issued by the Commission;	Definition of the word "bulk"	The word "bulk storage of petroleum needs to be defined and quantified to avoid ambiguity.

93	<p>(2) A person who wishes to carry out the supply of petroleum products by means of a retail dispensing station, or of gas through a centralised reticulation system, must have a licence issued by the County Government:</p> <p>Provided that any retail dispensing station or gas reticulation system complies with section 106 on construction permits and are operated in accordance with National guidelines published by Commission.</p>	<p>Delete subclause (2) and substitute therefore with the following new subclause- “(2) A person who wishes to carry out the supply of petroleum products by means of a retail dispensing station, or of gas through a centralised reticulation system must comply with section106 of this Act”.</p>	<p>A person who carries on the above activity already requires the licensing authority’s approval under section 16 of the Bill. The proposed licence seems to be a duplication of permits/ overlap in roles. This will increase investments costs.</p>
103	<p>Transfer of a licence or permit (1) A licensee shall not transfer or otherwise divest any rights, powers or obligations conferred or imposed upon the licensee by the licence or permit without the consent of the licensing authority.</p>	<p>Insert a new subclause (1A) immediately after (1)- (1A) the transfer provided for under subsection (1) does not include the acquisition of a minority stake below twenty per cent of the voting securities of a licence held solely for the purpose of passive investment.</p>	<p>There is need to have specific thresholds for a change of control. Without a specific threshold it would not be possible for legal practitioners to determine whether a transfer of 30 % or 40% would contribute to a change of control.</p>
117	<p>(1) A person engaged in petroleum business shall comply with the applicable environmental, health and safety laws.</p>	<p>A person engaged in petroleum business shall comply with the applicable environmental, health and health and safety laws and shall make an environmental deposit bond as provided for in Section 28 of the Environmental Management and Co-ordination Act, 1999</p>	<p>Operators should contribute to an environmental deposit bond as established in the Environmental Management and Co-ordination Act, 1999.</p>
117 (2)	<p>(2) In the event of a fire, explosion, oil spill, injury or fatality occurring in the course of operating a petroleum logistics facility, transportation or</p>	<p>(2) In the event of a fire, explosion, oil spill, injury or fatality occurring in the course of operating a petroleum logistics facility, transportation or sale of petroleum, either by accident or</p>	<p>The amendment seeks to include NEMA as one of the authorities that certifies compliance. NEMA is the authority in charge of</p>

	<p>sale of petroleum, either by accident or through negligence, the operator or person transporting or selling the petroleum shall forthwith clean up the polluted or damaged environment, at the operator's own expense, to the satisfaction of the licensing authority and any other relevant authority:</p> <p>Provided that any person engaged in the storage, transportation or sale of petroleum and petroleum products shall have an oil clean-up plan in compliance with the National Oil Spill Policy, relevant environmental health and safety regulations or guidelines.</p>	<p>through negligence, the operator or person transporting or selling the petroleum shall forthwith clean up the polluted or damaged environment, at the operator's own expense, to the satisfaction of the licensing authority, <u>the national body in charge of environmental management</u> and any other relevant authority.</p>	<p>ensuring compliance with environmental legislation as well as the body staffed with relevant experts.</p>
120	<p>Contraventions by petroleum carrying ships</p> <p>(3) A person who, while within Kenya's Exclusive Economic Zone and Outer Continental Shelf, discharges or allows to escape into the –</p> <p>(a) petroleum or water mixed with petroleum;</p> <p>(b) water from bilges or tanks;</p> <p>(c) water used for flushing pipes and connections; or</p> <p>(d) sand used to absorb petroleum,</p> <p>commits an offence and shall on conviction, be liable to a fine of not less than ten million shillings, or to a term of imprisonment of not less than five years, or to both such fine and</p>	<p>Insert a new subclause (3A)-</p> <p>"The government or a relevant agency shall as is reasonably practicable restore the environment to its former condition and such costs shall be recoverable from the owner or master of ship"</p>	<p>A clause should be included that allows the government to clean the water and later recover the costs from the owner or master of ship in the event of failure by the owner to undertake the clean-up.</p>

	imprisonment and be responsible, at his or her own cost, for cleaning the water and restoring it to its original status.		
156	<p>Keeping of register of licences and approvals.</p> <p>(3) The contents of the register shall be available for inspection by the public, during such hours and subject to the payment of such fee as may be prescribed by the Commission.</p>	<p>Delete subclause (3) and substitute therefor the following clause-</p> <p>The contents of the register shall be made available for inspection by the public through the official website of the Commission.</p>	This is in line with developments in information technology.
158	<p>Powers of the Commission to enter, inspect and investigate.</p> <p>(1) The Commission or any person authorized by the Commission in writing may—</p>	<p>Insert subclause (3) (A)-</p> <p>The Commission shall produce the license with a seven day written notice on any pending inspection.</p>	Only when the Commission reasonable suspects a breach of the license conditions. Laws and regulations can this proposed notice requirement be waived.
161	<p>Hydro-electric generation</p> <p>(2) The Commission shall before issuing any hydro-electric power generation licence have particular regard to, whether or not in its opinion—</p>	<p>Insert a new subclause (2) (A) the Commission in making any decision on hydro-electric generation, he or she shall be in consultation with the agency responsible for water.</p>	This is reduce conflict in decision making between governmental bodies.
162	<p>Direction to operate a generating plant</p> <p>(2) For the purposes of this section, the expression “extraordinary circumstances” means circumstances arising out of threat to security of the state, public order or a natural calamity or such other circumstances arising in the public interest.</p>	Delete subclause (2)	Investors in the power sector are likely to view this provision as amounting to an arbitrary right for the government to curtail the production of their plants and it is likely that they will seek to have this risk mitigated through contractual mechanisms in the relevant agreements with off/takes and or governments

172	<p>Electricity sales levy</p> <p>The Cabinet Secretary may impose a levy of up to five percent on all electricity consumed in the country, the proceeds of which shall go into the Rural Electrification Programme Fund, set up under section</p> <p>Error! Reference source not found.</p>	Amend the clause by deleting the word “impose” and substitute therefor the words “ may prescribe regulations imposing “	
198	<p>Power to develop energy infrastructure on any land</p> <p>A person may develop energy infrastructure, including but not limited to electric supply lines, petroleum or gas pipelines, geothermal or coal infrastructure, on, through, over or under any public, community or private land subject to the provisions of this Act and relevant written law.</p>	<p><i>198. A person may develop energy infrastructure, including but not limited to electric supply lines, petroleum or gas pipelines, geothermal or coal infrastructure, on, through, over or under any public, community or private land subject to the provisions of this Act, an Environmental Impact Assessment and relevant law.</i></p>	<p>The clause appears to place energy infrastructure above any other national considerations, including the Constitution that entitles us to a clean and healthy environment. It seems to allow energy companies to build anything on any government property such as archeological sites, national parks and forests. Kenya’s national interest needs to be taken into account. Allowing unfettered access by such companies to these critical sites is a dangerous move. Therefore there is a need to curtail this free access by making it express for one to seek an environmental impact assessment before developing any energy infrastructure. The provision (CAK) presents the greatest threat to our critical ecological systems and it fails to exempt protected areas from infrastructure associated with energy production, conveyance and supply.</p>

<p>206 (1)</p>	<p>Installation of energy infrastructure along roads, railways</p> <p>(1) For the purpose of the production, conveyance and supply of energy, a licensee may erect, fix, install or lay any electric supply lines, oil or gas pipelines, other infrastructure or apparatus in, through, upon, under, over or across any public street, road, railway, tramway, river, canal, harbour or Government property, including forests, National parks, reserves and heritage sites, in the manner and on the conditions as provided in this Act.</p>	<p>Insert the words “subject to an Environmental Impact Assessment and any relevant law.”</p> <p>Amendment from Nature Kenya Insert the words “subject to the provisions of the Constitution and the Environmental Management and Coordination Act.”</p>	<p>The amendment seeks to exclude the access and utilisation of forests, National Parks, reserves and heritages sites. These protected areas are mere 8% of the total land area.</p> <p>There is need to subject any development to an EIA in accordance to EMCA and other sectoral laws such as wildlife Act, Forest and Conservation Act among others</p>
<p>209 (2)</p>	<p>(2) The Cabinet Secretary shall, prior to the declaration of any area as an energy resource area under sub-section (1), consult with the County Government which the Cabinet Secretary considers necessary or appropriate to consult in the declaration of such area as an energy resource area.</p>	<p>(2) The Cabinet Secretary shall, prior to the declaration of any area as an energy resource area under sub-section (1), consult with the relevant County Government, local communities any other relevant agency appropriate to consult in the declaration of such area as an energy resource area.</p>	<p>Before declaring an area an energy resource area, there is need to consult other stakeholders other than the county governments. Public participation should be increased under these circumstances due to the impact of the projects anticipated.</p>
<p>Part X</p>	<p>Deals with Miscellaneous provisions</p>	<p>Insertion of a clause to read as;</p> <p>The Cabinet Secretary in consultation with the Commission and the Commission on Administrative Justice shall cause the following regulations and guidelines to be published:</p> <p>(a) the manner in which information can be accessed from the Commission;</p> <p>(b) the method of public</p>	<p>The amendment seeks to provide directions on public participation, how to access information and which information should be availed to the public.</p> <p>This is vital as it will contribute to the inclusion of the National Value of public participation envisioned in Article 10 and the Right to Access Information (Article</p>

		consultations; and (c) a grievance redress process to the Commission.	35).
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3.4 Submissions by Members of Parliament from Ukambani Region

The Members of Parliament of Ukambani Region in a written submission made the following submissions.

1. The local community share in terms of royalties should be increased from five percent to ten percent of the National Government share payable to a trust fund managed by a board of trustees consisting of the elected leaders representing the sub-counties.
2. There is need to make provision that prior to the production of coal, land adjudication should be undertaken in terms of determining and authenticating ownership of land through issuance of title deeds to the members of the local communities.
3. There is also need to amend the Bill to make provision for compensation of land acquired for purposes of producing coal. The process of compensating the owners of land should however be undertaken once negotiations with the local communities have been done and concluded. There is also need to take into account the cultural values of the local communities in determining the amount of compensation to be given to the owners of land proposed to be displaced.
4. The Bill should also be amended to require the Government and licensees/investors to undertake corporate social responsibilities projects including supply of water in areas where the coal is being produced.
5. The Bill should also be amended to include that prior to a licence of production of coal being granted to a person, the Environmental Impact Assessment must be undertaken.
6. The Bill should also be amended to provide that the Coal production plant should be located in the Coal Basin.

There is also need to amend the Bill on the provisions for local content requirements so as to provide that the local content requirements should not be less than seventy per cent. Further the amendment should provide that employment at all levels in an company or institution involved in the production of coal shall be given first to the local people where the coal resource is being produced.

4.0 Committee Observations

The Committee made the following general observations on the Bill:

- 1) There is need to harmonize the Energy Bill and the Petroleum (Exploration, Development and Production) Bill so as to ensure that the midstream and downstream petroleum operations are contained in the Petroleum Bill and not in the Energy Bill.
- 2) The Bill should be amended to create an offence for drivers who adulterate petroleum.
- 3) The area where there is exploration of energy resources should be fenced by the contractor to avoid conflict with the local community.
- 4) Part V of the Bill on Midstream and Downstream Petroleum should be moved to Petroleum Bill so as to move all functions dealing with Petroleum to the Petroleum Bill.
- 5) The national integrated energy plan would have several implications on the participants in the energy sector and Kenyans at large. The plan should therefore be developed in consultation with the private sector and other stakeholders.
- 6) There is need to broaden the scope of qualifications for members of the Boards by removing requirement for specific degrees and leaving it open because all one needs to seat on the board is managerial skills.
- 7) There is need for the licensing authority to formulate safeguards against licensees who obtain licenses for speculation purposes. Such grounds should be used for rejecting application for renewal as required under clause 78(5) of the Bill.
- 8) The Bill has vested exclusive power on the Cabinet Secretary to make a determination without reference to any advisory or oversight organ.
- 9) There is need for a clearer and elaborate mechanism that informs decision-making by the Cabinet Secretary on the grant of a geothermal resource licence.
- 10) The licensee should only have the first option of extracting the mineral once they receive the Mining License or Permit and should pay royalties in accordance with the Mining Act.

- 11)The Bill should also make it mandatory for the licensee to restore land to its former condition in the first instance where there is damage that is occasioned to land.
- 12)There is need to harmonize the Energy Bill and the Petroleum Bill on the functions of the Energy Regulatory Commission and the Tribunal which should be anchored in the Energy Bill.
- 13)The Production Sharing Contract and the Field Development Plan should be submitted to Parliament for ratification as provided for in Article 71 of the Constitution.
- 14)There is need to have clear mechanisms on public participation in terms of engagement of stakeholders, mobilization of the public, creation of awareness and clarity on timelines.
- 15)There is need for Parliament to fast track the consideration of the Land Value (Index) Bill which has clear provisions on compensation of land owners where there is compulsory acquisition of land.
- 16)The members of the Tribunal should serve on part time basis based on the functions of the Tribunal as espoused in the Energy and Petroleum Bills.
- 17)There is need to promote the use of renewable energy which would promote forest conservation and clean environment.

5.0 Committee Recommendations

The Committee considered the submissions of the stakeholders and made the following recommendations –

- (1)The Committee agreed with clauses 1 6, 7, 8, 9, 13, 14, 15, 16, 17, 18, 19, 21, 23, 24, 25, 27, 28, 29, 30, 31, 33, 34, 37, 39, 40, 42, 46, 47, 48, 49, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 76, 77, 81, 82, 83, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99 and 100.
- (2) The Committee also agreed with clauses 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 168, 169, 170, 171, 172, 174, 175, 176, 177, 178, 179, 180,

181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 200, 202, 203, 205, 207, 208, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 245, 246, 247, 248, 249, 250, 251 and the Schedules to the Bills.

(3) The Committee further agreed to delete Part V of the Energy Bill and insert it in the Petroleum Bill and further harmonize the amendments.

(4) There is need to harmonize the Energy Bill and the Petroleum Bill on the functions of the Energy Regulatory Commission and the Tribunal which should be anchored in the Energy Bill.

(5) The Committee made amendments to the following clauses-

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
2	Interpretations	<p>Adulterated;</p> <p>Downstream Petroleum;</p> <p>Minimum Operational Stocks;</p> <p>Open tendering System;</p> <p>Petroleum Business;</p> <p>Refine;</p> <p>Refined Petroleum Products;</p> <p>Refinery;</p> <p>Liquefied Petroleum Gas;</p> <p>Retail dispensing site;</p> <p>Storage depots;</p> <p>Strategic stocks;</p> <p>Undertakings (b)</p> <p>'open Access'</p> <p>'works</p>	Definitions to be inserted in Petroleum Bill	Ministry of Energy	Adopted
2	"building" has the meaning assigned to it under the Physical Planning Act;	"building" has the meaning assigned to it under the relevant written law";	To conform to the law	Ministry of Energy	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
	“consumer” means any person supplied or entitled to be supplied with electrical energy or petroleum;22	in the definition of “consumer” by deleting the words “or petroleum”;	To align it with Energy Bill	Ministry of Energy	Adopted
	“distribution licensee” means a licensee authorised to operate and maintain a distribution system for supplying energy to the consumers in its area of supply;	“distribution licence”, means any document or instrument authorizing a person to operate a distribution system for the purpose of enabling supply of electrical energy to consumers or to other licensees;	To avoid confusion with retail licenses this need not have any network.	Ministry of Energy	Adopted
	Delete local content and substitute “local content” means the use of Kenyan local expertise, goods and services, people, businesses and financing for the systematic development of national capacity and capabilities for the enhancement of the Kenyan economy;	“local content” means the added value brought to the Kenyan economy from petroleum related activities through systematic development of national capacity and capabilities and investment in developing and procuring locally available work force, services and supplies, for the sharing of accruing benefits;	To broaden the scope and align it with Petroleum Bill.	Ministry of Energy	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
		Energy Delete the words "(excluding upstream petroleum and coal activities)"	To align it with Energy Bill	Ministry of Energy	Adopted
		Amend 'license' " delete the words authorizing the importation, exportation, refining, storage and sale of petroleum or"	To align it with Energy Bill	Ministry of Energy	Adopted
		"Pipeline" (a) Delete the words "petroleum" and substitute the word "transportation"; (b) by deleting paragraph (a).	To align it with Energy Bill	Ministry of Energy	Adopted
		"Undertaking" by deleting paragraph (b)	To align it with Energy Bill	Ministry of Energy	Adopted
3	If there is a conflict between this Act and any other Act, this Act shall prevail on the following matters— (b) the importation, exportation, refinement, transportation, storage, and sale of petroleum, petroleum products or gas;	By deleting paragraph (b) and substituting therefor a new paragraph (b)- Save where this Act expressly provides otherwise, any license granted or anything done under this Act shall not affect the right, privilege, obligation or liability acquired by any licensee or other person in any contract or under any written law prior to the commencement of the is Act.	To align it with Energy Bill	Ministry of Energy	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
4	National Energy Policy (1) The Cabinet Secretary shall develop and publish a national energy policy which shall be reviewed every five years.	Insert the words "in consultation with the relevant stakeholders" immediately after the words "Cabinet Secretary shall"	The proposed national energy policy would undoubtedly have implications on all participants in the energy sector. Before implementing the national energy policy, the private sector and other stakeholder's views should be obtained before the policy is published.	ANJARWALLA & KHANA	Adopted
4		THAT , clause 4 of the Bill be amended in subclause (1) by inserting the words "in consultation with relevant stakeholders" immediately after the words "Cabinet Secretary".		Ministry of Energy	Adopted
5	Integrated national energy plan 5(1) The Cabinet Secretary shall develop, publish and review energy plans in respect of midstream and downstream petroleum, coal, renewable energy	THAT , clause 5 of the Bill be amended in subclause (1), by deleting the words "midstream and downstream petroleum"	To align it with Energy Bill	Ministry of Energy	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
	and electricity so as to ensure delivery of reliable energy services at least cost.				
5	Integrated national energy plan 5(1) The Cabinet Secretary shall develop, publish and review energy plans in respect of midstream and downstream petroleum, coal, renewable energy and electricity so as to ensure delivery of reliable energy services at least cost.	Insert the words " in consultation with the relevant stakeholders" immediately after the words " Cabinet Secretary shall"	The integrated national energy plan would have several implications on the participants in the energy sector and Kenyans at large. The plan should be developed in consultation with the private sector and other stakeholders.	ANJARWALLA & KHANA	Adopted
10	The functions of the Commission shall be to— (a) regulate- (ii) importation, refining, exportation, transportation, storage and sale of petroleum and petroleum products with the exception of crude oil;	THAT clause 10 of the Bill be amended in paragraph (a) by deleting subparagraph (ii).	Moving functions dealing with Petroleum Business under the Energy Bill to the Petroleum Bill.	Ministry of Energy	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
11	The Commission shall have all powers necessary for the performance of its functions under this Act and in particular, the Commission shall have the power to— (b) set, review and approve contracts, tariffs and charges for common user petroleum logistics facilities and petroleum products;	THAT clause 11 of the Bill be amended by deleting paragraph (b)	To align it with Energy Bill	Ministry of Energy	Adopted
12	(1) The management of the Commission shall vest in the Board of Directors of the Commission consisting of— (b) the Principal Secretary responsible for Energy and Petroleum or his representative; (2) A person shall be qualified for appointment as a Chairperson under subsection (1) (a) or	THAT clause 12 of the Bill be amended— (a) in subclause(1)- (i) in paragraph (b) by deleting the words “and petroleum”; (ii) in paragraph (c) by deleting the words “ and petroleum”; (b) in subclause (2) (b) by deleting “in the fields of engineering, physical sciences, law, finance, environment studies, economies, social sciences or energy”	To align it with Energy Bill and broaden the scope of qualifications for members of the Board	Ministry of Energy	Adopted.

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
20	<p>member of the Board under subsection (1) (d) if such person—</p> <p>(b) holds a degree from a university recognized in Kenya or its equivalent in the fields of engineering, physical sciences, law, finance, environmental studies, economics, social sciences or energy;</p>	<p>THAT, clause 20(1) of the Bill be amended by deleting the words “sales of electricity and petroleum products” and substitute therefor the words “sale of electricity products”</p>	<p>To align it with Energy Bill</p>	<p>Ministry of Energy</p>	<p>Adopted</p>
22	<p>Powers of Committees or agents</p> <p>(1) A committee, member, officer, employee or agent appointed under section Error! Reference source</p>	<p>Insert a new subclause</p> <p>That clause 22 of the Bill be amended by inserting the words “Subject to any other written law” immediately before the words “A committee member”</p>	<p>The powers exercised in clause 22 should be subjected to constitutional thresholds in Articles 31 and 40.</p>	<p>ANJARWALLA & KHANA</p>	<p>Adopted.</p>

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
25	<p>not found. may, upon production of evidence of appointment to any person reasonably requiring it, for the purposes of this Act—</p> <p>26 (a) Members of Tribunal</p>	<p>Section 26 (a) be amended by deleting the words "Judicial Service Commission" appearing immediately after words "nominated by the" and replacing by the word "President"</p> <p>Section 26 be amended by deleting paragraph (b) and substituting therefore with following new paragraph "five other persons possessing knowledge and experience in petroleum and energy and who are not in employment of government agency appointed by the Cabinet Secretary responsible for Energy"</p>			
26	<p>(3)The Chairperson, Vice Chairperson and members of the Tribunal shall be appointed at different times so that</p>	<p>THAT, clause 26 of the Bill be amended in subclause (3) by inserting the word "of" immediately after the words "of their terms".</p>	Typographical		Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
	the respective expiry dates of their terms office shall fall at different times.				
26	<p>Members of the Energy and Petroleum Tribunal</p> <p>26 (1) The Tribunal shall consist of not more than seven members as follows—</p> <p>(a) a Chairperson and vice Chairperson who shall be of opposite gender, nominated by the Judicial Service Commission from among persons qualified to be judges of the High Court possessing at least five years' experience in energy and petroleum;</p>	<p>By deleting the word "vice chairperson".</p> <p>By inserting a provision to the effect that the Tribunal shall at its first sitting appoint a vice-chairperson who shall be a person with similar qualifications as the chairperson.</p>	<p>While the Bill indicates that the President shall appoint the Chair and Vice Chair of the Tribunal, the practice is for the vice chair to be a person of the opposite gender and appointed by fellow members at the first sitting of the Tribunal.</p>	KEPSA	Adopted.
32	<p>Arrangement of business</p> <p>(4) The rules of the Tribunal shall be published in the <i>Gazette</i>.</p>	<p>Insert the words "by the chairperson" immediately after the words "in the <i>Gazette</i>"</p>	<p>Tribunals are usually crippled upon formation since it takes too long for the Cabinet Secretary to come up with rules of procedure. It will make sense for the Chairperson</p>	ANJARRW/ALLA & KHANA	Adopted.

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
35	<p>Remuneration</p> <p>(1) The Tribunal shall, in consultation with the Cabinet Secretary and upon the advice of the Salaries and Remuneration Commission, pay its members such remuneration, fees or allowances for expenses as it may determine from time to time.</p>	<p>Insert a new subclause</p> <p>“(3) The members to the Tribunal shall serve on a part time basis.”</p>	<p>to publish the rules of procedure upon appointment.</p> <p>The tribunal is unlikely to be busy to warrant full time employment. There is need to save funds by placing the members on part time basis.</p>	ANJARWALLA & KHANA	Adopted.
36	<p>Jurisdiction of the Tribunal</p> <p>(1) The Tribunal shall have jurisdiction to hear and determine all matters referred to it, relating to the energy and petroleum sector arising under this Act or any other Act.</p>	<p>Delete the words “ or any other Act”</p>	<p>This is to prevent conflict of laws and conflict of jurisdiction with other statutory body. It is noted that the intention that the tribunal will also have jurisdiction to hear under the proposed petroleum Bill, 2017, it is the view that the petroleum Bill, rather than the energy Bill should contain provisions</p>	ANJARWALLA & KHANA	Adopted.

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
36	(4) The Tribunal shall have original civil jurisdiction on any dispute arising out of the bidding rounds carried out under the Upstream Petroleum law.	THAT, clause 36 of the Bill be amended by deleting the words "upstream"	referring to disputes to the tribunal. To align it with Energy Bill	Ministry of Energy	Adopted
38	(3) The Tribunal shall conduct its proceedings without procedural formality but shall observe the rules of natural justice.	THAT, clause 38 of the Bill be amended in subclause (3) by inserting the words "and rules of evidence of a similar nature" immediately after the words "natural justice"	This inclusion that the rules of Evidence Act similar to the rules of natural justice be observed. It would be an injustice if hearsay evidence is admitted in such complex and high value dispute.	Ministry of Energy	Adopted
38	Procedure of the Tribunal (3) The Tribunal shall conduct its proceedings without procedural formality but shall observe the rules of natural justice.	Insert the words "and rules of evidence of a similar nature" immediately after the words "natural justice."	This inclusion that the rules of Evidence Act similar to the rules of natural justice be observed. It would be an injustice if hearsay evidence is admitted in such complex and high value dispute.	ANJARWALLA & KHANA	Adopted.
		NEW CLAUSE	To provide for persons serving in the tribunal for	Ministry of Energy	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
		<p>THAT, the Bill be amended by inserting a new clause immediately after clause 40—</p> <p>Protection from personal liability.</p> <p>40A.A matter or thing or act done by a member of the Tribunal or any officer, employee or agent of the Tribunal shall not, if the matter or thing is done bona fide for executing the functions, powers or duties of the Tribunal, render the member, officer, employee, agent or any other person acting on those directions personally liable to any action, claim or demand whatsoever.</p>	<p>protection from personal liability from actions done bona fide in the execution of functions and powers.</p>		
41	<p>Any reference that has been made to the court.</p> <p>The Tribunal shall have appellate jurisdiction to hear and determine appeals to all disputes arising from decisions of the Commission or licensing authority relating to energy matters and any matter</p>	<p>Insert the words “ under this Act” immediately after the words “ any licensing authority”</p>	<p>This is to prevent any conflict of laws or conflicts with other statutory bodies</p>	ANJARWALLA & KHANA	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
43	(1) The Corporation shall perform such functions and exercise such powers as may be necessary under this Act to— (j) develop and promote, in collaboration with other agencies, the use of renewable energy and technologies, including but not limited to biomass, biodiesel, bio-ethanol, charcoal, fuel-wood, solar, wind, tidal waves, small hydropower, biogas, co-generation and municipal waste, but excluding geothermal;	CLAUSE 43 THAT , clause 43 of the Bill be amended in subclause (1) — (a) by deleting paragraph (j) and substituting therefor the following new paragraph— “(j) develop, promote and manage in collaboration with other agencies, the use of renewable energy and technologies, including but not limited to biomass (biodiesel, bio-ethanol, charcoal, fuel-wood, bio-gas) municipal waste, solar, wind, tidal waves, small hydropower and co-generation but excluding geothermal;” (b) by deleting the word “Institute” and substituting therefor the word “Agency” in paragraph (k).	To align it with the Energy Bill	Ministry of Energy	Adopted
43	43 (1) (k) formulate, in conjunction with the	Delete the word “institute” and substitute therefor the word “	It is a typographical error.	KEPSA	Adopted.

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
	<p>Institute, a national strategy for coordinating research in renewable energy;</p> <p>43 (1) undertake, in conjunction with the Institute, research, development and dissemination of appropriate renewable energy technologies;</p>	<p>Agency”</p>			
44	<p>Board of the Corporation.</p> <p>(b) the Principal Secretary in the Ministry responsible for energy and petroleum or his representative;</p>	<p>THAT, clause 44 of the Bill be amended in sub-clause (1) by deleting the words “and petroleum” appearing in paragraph (b).</p>	<p>To align it with the Petroleum Bill</p>	<p>Ministry of Energy</p>	<p>Adopted</p>
45	<p>(2) The Chief Executive Officer shall be appointed through a competitive selection process.</p>	<p>THAT, clause 45 of the Bill be amended in subclause (2) by deleting the word “selection” and substituting therefor the word “recruitment”.</p>	<p>To align it with the Petroleum Bill</p>	<p>Ministry of Energy</p>	<p>Adopted</p>
50	<p>A matter or thing or act done by a member of the Board or any officer, employee or agent of the Corporation shall</p>	<p>THAT, clause 50 of the Bill be amended by inserting the word “liable” immediately after the words “directions personally”.</p>	<p>Typographical error</p>	<p>Ministry of Energy</p>	<p>Adopted</p>

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
	<p>not, if the matter or thing is done <i>bona fide</i> for executing the functions, powers or duties of the Corporation, render the member, officer, employee, agent or any other person acting on those directions personally liable to any action, claim or demand whatsoever.</p>				
57	<p>The management of the Agency shall vest in the Board of Directors of the Agency which shall consist of— (e) not more than four other members appointed by the Cabinet Secretary out of whom— (i) one person shall be nominated by the Kenya Private Sector Alliance; and</p>	<p>THAT, clause 57 of the Bill be amended by deleting paragraph (e) (i) and substituting therefor the following new paragraph— “(i) One person shall be a registered nuclear energy engineer with an experience of five years.”</p>	<p>To provide for membership of the Board</p>	<p>Ministry of Energy</p>	<p>Adopted</p>

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
75	(2) The Renewable Energy Resource Advisory Committee is composed of— principal secretary in the Ministry of Energy and Petroleum or his or her representative who shall be the Chairperson;	CLAUSE 75 THAT , clause 75(2) of the Bill be amended by deleting the words “and Petroleum”.	To align the Energy Bill	Ministry of Energy	Adopted
78	Cabinet Secretary to authorize search of geothermal resources	THAT clause 78 be amended in sub-clause (4) by deleting the words “force for a period of one year” and substituting therefor the words “force for a period of two years”. The clause should also be amended to include that where a person under sub-section (1) has not undertaken any activity as authorized for a period of five years upon being authorized by the Cabinet Secretary, it shall be a ground for revocation of the authority so granted.	The amendment seeks to increase the period of authority granted under sub-section (4). Further the amendment seeks to include an additional ground for revocation of authority to guard against speculation.		Adopted
79	Cabinet Secretary may grant a geothermal license	THAT , clause 79 of the Bill be amended in subclause (1) by deleting the words “on advice of	The advisory role is vested with the Renewable Energy	Ministry of Energy	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
	79. (1) The Cabinet Secretary on receiving an application for the extraction of geothermal resources in respect of any land, may, on the advice of the Commission grant a licence over part or the whole of a geothermal resources area under such terms and conditions as the Cabinet Secretary may determine in accordance with Article 71 of the Constitution.	the Commission" and substitute therefor the words "and in consultation with the Renewable Energy Resource Advisory Committee".	Resource Committee Advisory		
79	Cabinet Secretary may grant a geothermal resources licence	Delete the words "The Cabinet Secretary on receiving an application for the extraction of geothermal resources in respect of any land, may, on the advice of the Commission" and substitute therefor the words "The Cabinet Secretary may, on receiving an application for the extraction of geothermal resources in respect of any land, and in consultation	There is need for a clearer and elaborate mechanism that informs decision-making by the Cabinet Secretary on the grant of a geothermal resource licence. S. 78 (1) has vested exclusive power on the Cabinet Secretary to make a determination without reference to any	KEPSA	Adopted.

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
80	<p>Rights under license.</p> <p>(1) Without prejudice to Part VIII, a licence issued under section Error! Reference source not found. shall, subject to this Act, confer upon the licensee the right—</p> <p>(a) to enter upon the land being the subject of the licence to sink a well and to extract geothermal resources and to do all such things as are reasonably necessary for the conduct of those operations;</p>	<p>Insert the words “ within the confines of this Act and other relevant laws”</p>	<p>advisory or oversight organ</p> <p>The right should be subject to the land Act, the Land Registration Act; the Community Land Act; and the Land Control Act.</p>	ANJARWALLA & KHANA	Adopted.
80 (2)	<p>(2) Where any by-product obtained in the production of geothermal resources may be reclaimed for further use or sale</p>	<p>(2) Where any by-product obtained in the production of geothermal resources may be reclaimed for further use or sale and is a mineral within the meaning of the law governing</p>	<p>The licensee should only have the first option of extracting the mineral once they receive the Mining License or Permit and should pay royalties</p>	Natural Justice	Adopted.

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
80	Rights under a license	<p>mining, the licensee shall extract and sell the mineral and shall apply for a mining license or permit under the Mining Act, 2016 within three months of discovering and extracting the resource, this application and sale shall be done in accordance with the provisions of other written law.</p> <p>CLAUSE 80 THAT, clause 80 of the Bill be amended— in subclause (1) by inserting the words “within the confines of this Act and other relevant laws” immediately after the words “those operations”; by deleting subclause (2) and substituting therefor the following new clause— “(2) Where any by-product obtained in the production of geothermal resources may be reclaimed for further use or sale and is a mineral within the meaning of the law governing mining, the licensee shall extract and sell the mineral and shall</p>	in accordance with the Mining Act.	Ministry of Energy	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
84(3)	<p>Royalty Provided that the amount allocated in accordance to this subsection shall not exceed twice the amount allocated to the county government by Parliament in the financial year under consideration.</p>	<p>apply for a mining license or permit under the Mining Act, 2016 within three months of discovering and extracting the resource, this application and sale shall be done in accordance with the provisions of other written law. Provided the by-product in this case is not a mineral within the meaning of the law governing mining and such by-product is a product produced as a consequence of exploiting and extracting of geothermal resources the licensee shall exploit the same without requiring an additional license"</p>	To remove ambiguity on the amount to be allocated to the county government.		Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
84(4)	<p>Royalty (4) Notwithstanding subsection (3), where the resource is being exploited in one or more counties the Cabinet Secretary shall, in consultation with the Commission for Revenue Allocation, determine the rate of apportionment of the county share between the counties concerned based on the extent of the investment in each County.</p>	<p>By deleting the words "concerned based on the extent of the investment in each county"</p>	<p>To remove conditions to be applied in determining the rate of apportionment of county share.</p>		Adopted
119	<p>Offences and attempted offences</p>	<p>THAT clause 119 be amended in sub-clause (1)-</p> <p>(a) by inserting the following new paragraph immediately after paragraph (o)-</p> <p>(p) is in charge or in control of a petroleum tanker transporting or carrying adulterated petroleum or</p>	<p>Amendment seeks to create deterrence against adulteration of petroleum and discharging of export petroleum in the country.</p>		Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
		discharges export petroleum in the country; (b) by deleting the words “and (k)” appearing in sub-paragraph (i). and substituting therefor the words “(k) and (p)”.			
	Midstream and Downstream Petroleum licensing	DELETION OF A PART THAT, the Bill be amended by deleting Part V of the Bill	Align it with Petroleum Bill	Ministry Energy of	Adopted.
120	Contraventions by petroleum carrying ships (3) A person who, while within Kenya’s Exclusive Economic Zone and Outer Continental Shelf, discharges or allows to escape into the – (a) petroleum or water mixed with petroleum; (b) water from bilges or tanks; (c) water used for flushing pipes and connections; or (d) sand used to absorb	Insert a new subclause (3A)- “The government or a relevant agency shall as is reasonably practicable restore the environment to its former condition and such costs shall be recoverable from the owner or master of ship”	A clause should be included that allows the government to clean the water and later recover the costs from the owner or master of ship in the event of failure by the owner to undertake the clean-up.	ANJARWALLA & KHANA	Adopted.

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
	<p>commits an offence and shall on conviction, be liable to a fine of not less than ten million shillings, or to a term of imprisonment of not less than five years, or to both such fine and imprisonment and be responsible, at his or her own cost, for cleaning the water and restoring it to its original status.</p>				
149	<p>Factors to be considered in an application</p> <p>(1) The Commission shall, in granting or rejecting an application for a licence, take into consideration—</p>	<p>CLAUSE 149</p> <p>THAT, clause 149 of the Bill be amended in subclause (1) by inserting a new paragraph immediately after paragraph (e) —</p> <p>“(ea) the contractual rights , privileges, liabilities and obligations accrued to an existing licensee or any other person are not materially adversely affected;”</p>	<p>To take into consideration contractual rights.</p>	<p>Ministry of Energy</p>	<p>Adopted</p>
167	<p>Obligations and rights of a distribution licensee</p>	<p>CLAUSE 167</p> <p>THAT, clause 167 of the Bill be</p>	<p>To provide for the minimum threshold in</p>	<p>Ministry of Energy</p>	<p>Adopted</p>

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
173	<p>(2) A distribution licence does not relieve the licensee or anyone else from complying with laws applying to the development, building, operation or maintenance of a distribution network.</p>	<p>amended by inserting a new subclause immediately after subclause (2)</p> <p>“(3) A distribution licence shall not be granted in respect of any location which is less than one quarter of a square kilometer.</p> <p>Provided that this shall not apply in cases of islands in recognized rivers, lakes and in the exclusive economic zone”</p>	<p>granting licenses</p> <p>distribution</p>		
173	<p>Obligations and rights under retail licence</p> <p>(3) A person issued with a retail licence shall discharge such duties, in relation to the supply and trade in electrical energy as may be specified by the Commission.</p>	<p>CLAUSE 173</p> <p>THAT, clause 173 of the Bill be amended by inserting a new subclause immediately after subclause (3) —</p> <p>“(4) Where a licensee enters into a contract to supply electrical energy to a consumer who is receiving electrical energy from another licensee under this Act, the new licensee shall forthwith assume all obligations of the previous licensee relating to the subject consumer and previous contract shall cease and be extinguished.”</p>	<p>To provide for certainty while dealing with change of contractual obligations between two or more contractors and a consumer</p>	<p>Ministry of Energy</p>	<p>Adopted</p>

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
199	<p>Power to develop energy infrastructure on any land</p> <p>(1) A person who wishes to enter upon any land, other than his own to—</p> <p>(b) carry out a survey of the land for the purposes of paragraph (a);</p> <p>shall seek the prior consent of the owner of such land, which consent shall not be unreasonably withheld;</p> <p>Provided that where the owner cannot be traced, the applicant shall give fifteen days' notice, by public advertisement, in at least two newspapers of nationwide circulation.</p>	<p>Insert the words "through appropriate mechanisms including public advertisement in at least two newspapers of nationwide circulation, an announcement in a radio station of local coverage for a period of two weeks.</p>	<p>The amendment seeks to ensure adequate public participation.</p>	<p>Natural Justice</p>	<p>Adopted.</p>
201 (3)	<p>Consent to proposal</p> <p>(3) Where the owner of the land cannot be traced the applicant shall give thirty days' notice prior to the development of energy</p>	<p>Insert the words "through appropriate mechanisms including public advertisement in at least two newspapers of nationwide circulation, an announcement in a radio station of local coverage for a period of two weeks.</p>	<p>The amendment seeks to task the National Land Commission in consultation with a representative of the Governor of the relevant County, with receiving</p>	<p>Natural Justice</p>	<p>Adopted.</p>

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
	<p>infrastructure on the land by way of public advertisement in at least two newspapers of nationwide circulation:</p> <p>Provided that no development shall commence unless the amount of compensation payable, if any as determined by the relevant government agency responsible for the management of that land, has been deposited into a special compensation fund held by the said agency.</p>		<p>the compensation as envisaged under section 201 (3)</p>		
204(2)	<p>Power of licensee to enter land to inspect or repair energy infrastructure</p> <p>(2) Where energy infrastructure is removed, the surface of the land shall forthwith be restored to its former condition as far as</p>	<p>Delete subclause (2) and substitute therefore with the following new clause-</p> <p>(2) Where energy infrastructure is removed, the surface of the land shall forthwith be restored to its former condition as far as possible by the licensee and in default thereof restoration may be carried out by the owner of</p>	<p>The amendment seeks to make it mandatory for the licensee to restore land to its former condition in the first instance.</p>	Natural Justice	Adopted.

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
206 (1)	<p>Installation of energy infrastructure along roads, railways</p> <p>(1) For the purpose of the production, conveyance and supply of energy, a licensee may erect, fix, install or lay any electric supply lines, oil or gas pipelines, other infrastructure or apparatus in, though, upon, under, over or across any public street, road, railway, tramway, river, canal, harbour or Government property, including forests, National parks, reserves and heritage sites, in the manner and on the conditions as provided</p>	<p>Insert the words " and any other relevant Act" immediately after the words "in this Act"</p>	<p>The amendment seeks to exclude the access and utilization of forests, National Parks, reserves and heritages sites. These protected areas are mere 8% of the total land area. There is need to subject any development to an EIA in accordance to EMCA and other sectoral laws such as wildlife Act, Forest and Conservation Act among others</p>	<p>Nature Kenya; the East African Wild Life Society; Conservation Alliance of Kenya.</p>	<p>Adopted</p>

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
	in this Act.				
209(1)	<p>Declaration of energy resource areas</p> <p>(1) The Cabinet Secretary may, subject to the provisions of subsection (3) and having taken into consideration the recommendations made by the implementing agencies that any area is suitable for the conservation and management of energy resource or is suitable for the promotion of energy development projects, by order published in the <i>Gazette</i>, declare such area as an energy resource area.</p>	<p>The Cabinet Secretary may, subject to the provisions of subsection (3) and having taken into consideration of the recommendations made by the relevant agencies that an area is suitable for the conservation and management of energy resource or is suitable for the promotion of energy development projects, by order published in the <i>Gazette</i>, declare such area as an energy resource area.</p>	<p>The amendment proposes to include other relevant agencies that the Cabinet Secretary may consult before declaring any area an energy resource area.</p>	Natural Justice	Adopted
209 (2)	<p>(2) The Cabinet Secretary shall, prior to the declaration of any area as an energy resource area under sub-section (1), consult</p>	<p>(2) The Cabinet Secretary shall, prior to the declaration of any area as an energy resource area under sub-section (1), consult with the relevant County</p>	<p>Before declaring an area an energy resource area, there is need to consult other stakeholders other</p>	Nature Kenya	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
	section (1), consult with the County Government which the Cabinet Secretary considers necessary or appropriate to consult in the declaration of such area as an energy resource area.	Government, local communities and any other relevant agency appropriate to consult in the declaration of such area as an energy resource area.	than the county governments. Public participation should be increased under these circumstances due to the impact of the projects anticipated.		
244	Consolidated Energy Fund	Insert a new paragraph to read as- (i) applied research, technology development and innovation allied to energy sector including technology needs assessment, deployment and scaling up.	This amendment seeks to take into account salient areas that have been left out of the Consolidated Energy Fund	KEPSA	Adopted.
252	Repeals and savings	<p>CLAUSE 252</p> <p>THAT, clause 252 of the Bill be amended—</p> <p>(a) in subclause (1) by deleting the figure “2013” and substituting therefor the expression “131 of 2012”</p> <p>(b) in subclause (2) , by deleting paragraph (f);</p>	<p>To give correct expression of the KNEB order.</p> <p>To avoid duplicity as it has been provided for under amended clause.</p>	Ministry of Energy	Adopted

CLAUSE	ENERGY BILL, 2017 PROVISION	PROPOSED AMENDMENT TO THE BILL	RATIONALE	Proposing entity	Recommendation
		<p>Include a transitional provision to provide that save where this Act expressly provides otherwise, any license granted or anything done under this Act shall not affect the right, privilege, obligation or liability acquired by any licensee or other person in any contract or under any written law prior to the commencement of this Act.</p>			

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

TWELFTH PARLIAMENT - FIRST SESSION

In matters of consideration by the National Assembly – The Energy Bill, 2017.

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that “Parliament shall facilitate public participation and involvement in the legislation and other business of the Parliament and its Committees.” Standing Order 127(3) of the National Assembly Standing Orders provides that “the Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the committee makes its report to the House.”

The Energy Bill 2017, seeks to consolidate the laws relating to Energy, align the legal and regulatory framework of the energy sector with the Constitution of Kenya 2010 by setting out with clarity the specific roles of the National and County Government functions in relation to energy. The Bill proposes to repeal the Energy Act No. 12 of 2006 and Geothermal Resources Act No. 12 of 1982 of Laws of Kenya.

The Energy Bill 2017 has undergone First Reading pursuant to Standing Order 127 (3) and is now committed to the Departmental Committee on Energy for consideration and thereafter report to the House..

Pursuant to Article 118(1)(b) and Standing Order 127, the Committee invites members of the public to submit any representations they may have on The Energy Bill, 2017. The representations may be forwarded to the Clerk of the National Assembly, P.O Box 41842-00100, Nairobi; or hand-delivered to the Office of the Clerk, Main Parliament Building, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Wednesday 28th February, 2018 at 5:00 pm.

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

MINUTES OF THE 54TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE COMMITTEE ROOM 7 ON TUESDAY 10TH APRIL 2018 AT 3.00PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Gitau Faith Wairimu, M.P.
5. The Hon. Lemanken Aramat, M.P.
6. The Hon. Tindi Nicholas Mwale, MP
7. The Hon. Ekomwa Lomenen James, M.P.
8. The Hon. Ken Chonga, MP
9. The Hon. Vincent Musyoka Musau, M.P.
10. The Hon. Joseph Wathigo Manje, M.P.
11. The Hon. Walter Owino, MP
12. The Hon. Clement Muturi Kigano, M.P.
13. The Hon. Abdikhaim Osman Mohamed, M.P
14. The Hon. Elsie Muhanda, MP

ABSENT WITH APOLOGY

1. The Hon. Amina Gedow Hassan, M.P
2. The Hon. Elisha Odhiambo, MP
3. The Hon. Mohammed Ali Lokiro, MP
4. The Hon. Julius Musili Mawathe, MP
5. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Lead Clerk
2. Mr. Douglas Katho - Clerk Assistant III
3. Ms. Jemimah Waigwa - Legal Counsel
4. Mr. Moge Abdulyusuf - Fiscal Analyst
5. Ms. Fatuma Abdi - Audio Officer

MIN. NO. 179/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN. NO. 180/2018: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS AND CONSIDERATION OF MATTERS ARISING THEREOF.

The minutes of the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd, 44th, 45th, 46th, 47th, 48th, 49th, 50th, 51st sittings were read and confirmed as true records of proceedings as follows: -

The 5th Sitting proposed by Hon. (Dr.) Robert Pukose, M.P. and seconded by the Hon. Cecily Mbarire, M.P.

The 6th Sitting proposed by the Hon. Gitau Faith Wairimu, M.P. and Seconded by Hon. Lemanken Aramat, M.P.

The 7th Sitting proposed by the Hon. Tindi Nicholas Mwale, MP and seconded by the Hon. Ekomwa Lomenen James, M.P.

The 8th Sitting proposed by the Hon. Ken Chonga, MP and seconded by the Hon. Vincent Musyoka Musau, M.P.

The 9th Sitting proposed by the Hon. Joseph Wathigo Manje, M.P. and seconded by the Hon. Walter Owino, MP

The 10th Sitting proposed by the Hon. Clement Muturi Kigano, M.P. and seconded by the Hon. Abdikhaim Osman Mohamed, M.P

The 11th Sitting proposed by the Hon. Elsie Muhanda, MP and seconded by the Hon. Dr. Robert Pukose, MP.

The 12th Sitting proposed by Hon. (Dr.) Robert Pukose, M.P. and seconded by the Hon. Cecily Mbarire, M.P.

The 13th Sitting proposed by the Hon. Gitau Faith Wairimu, M.P. and Seconded by Hon. Lemanken Aramat, M.P.

The 14th Sitting proposed by the Hon. Tindi Nicholas Mwale, MP and seconded by the Hon. Ekomwa Lomenen James, M.P.

The 15th Sitting proposed by the Hon. Ken Chonga, MP and seconded by the Hon. Vincent Musyoka Musau, M.P.

The 16th Sitting proposed by the Hon. Joseph Wathigo Manje, M.P. and seconded by the Hon. Walter Owino, MP

The 17th Sitting proposed by the Hon. Clement Muturi Kigano, M.P. and seconded by the Hon. Abdikhaim Osman Mohamed, M.P

The 18th Sitting proposed by the Hon. Elsie Muhanda, MP and seconded by the Hon. Dr. Robert Pukose, MP.

The 19th Sitting proposed by Hon. (Dr.) Robert Pukose, M.P. and seconded by the Hon. Cecily Mbarire, M.P.

The 20th Sitting proposed by the Hon. Gitau Faith Wairimu, M.P. and Seconded by Hon. Lemanken Aramat, M.P.

The 21st Sitting proposed by the Hon. Tindi Nicholas Mwale, MP and seconded by the Hon. Ekomwa Lomenen James, M.P.

The 22ND Sitting proposed by the Hon. Ken Chonga, MP and seconded by the Hon. Vincent Musyoka Musau, M.P.

The 23RD Sitting proposed by the Hon. Joseph Wathigo Manje, M.P. and seconded by the Hon. Walter Owino, MP

The 24TH Sitting proposed by the Hon. Clement Muturi Kigano, M.P. and seconded by the Hon. Abdikhaim Osman Mohamed, M.P

The 25TH Sitting proposed by the Hon. Elsie Muhanda, MP and seconded by the Hon. Dr. Robert Pukose, MP.

The 26TH Sitting proposed by Hon. (Dr.) Robert Pukose, M.P. and seconded by the Hon. Cecily Mbarire, M.P.

The 27TH Sitting proposed by the Hon. Gitau Faith Wairimu, M.P. and Seconded by Hon. Lemanken Aramat, M.P.

The 28TH Sitting proposed by the Hon. Tindi Nicholas Mwale, MP and seconded by the Hon. Ekomwa Lomenen James, M.P.

The 29TH Sitting proposed by the Hon. Ken Chonga, MP and seconded by the Hon. Vincent Musyoka Musau, M.P.

The 30TH Sitting proposed by the Hon. Joseph Wathigo Manje, M.P. and seconded by the Hon. Walter Owino, MP

The 31ST Sitting proposed by the Hon. Clement Muturi Kigano, M.P. and seconded by the Hon. Abdikhaim Osman Mohamed, M.P

The 32ND sitting proposed by the Hon. Elsie Muhanda, MP and seconded by the Hon. Dr. Robert Pukose, MP.

The 33RD Sitting proposed by Hon. (Dr.) Robert Pukose, M.P. and seconded by the Hon. Cecily Mbarire, M.P.

The 34TH Sitting proposed by the Hon. Gitau Faith Wairimu, M.P. and Seconded by Hon. Lemanken Aramat, M.P.

The 35TH Sitting proposed by the Hon. Tindi Nicholas Mwale, MP and seconded by the Hon. Ekomwa Lomenen James, M.P.

The 36TH Sitting proposed by the Hon. Ken Chonga, MP and seconded by the Hon. Vincent Musyoka Musau, M.P.

The 37TH Sitting proposed by the Hon. Joseph Wathigo Manje, M.P. and seconded by the Hon. Walter Owino, MP

The 38TH Sitting proposed by the Hon. Clement Muturi Kigano, M.P. and seconded by the Hon. Abdikhaim Osman Mohamed, M.P

The 39TH Sitting proposed by the Hon. Elsie Muhanda, MP and seconded by the Hon. Dr. Robert Pukose, MP.

The 40th Sitting proposed by the Hon. Clement Muturi Kigano, M.P. and seconded by the Hon. Abdikhaim Osman Mohamed, M.P.

The 41st Sitting proposed by the Hon. Elsie Muhanda, MP and seconded by the Hon. Dr. Robert Pukose, MP.

The 42nd Sitting proposed by Hon. (Dr.) Robert Pukose, M.P. and seconded by the Hon. Cecily Mbarire, M.P.

The 43rd Sitting proposed by the Hon. Gitau Faith Wairimu, M.P. and Seconded by Hon. Lemanken Aramat, M.P.

The 44TH Sitting proposed by the Hon. Tindi Nicholas Mwale, MP and seconded by the Hon. Ekomwa Lomenen James, M.P.

The 45TH Sitting proposed by the Hon. Ken Chonga, MP and seconded by the Hon. Vincent Musyoka Musau, M.P.

The 46TH Sitting proposed by the Hon. Joseph Wathigo Manje, M.P. and seconded by the Hon. Walter Owino, MP

The 47TH Sitting proposed by the Hon. Clement Muturi Kigano, M.P. and seconded by the Hon. Abdikhaim Osman Mohamed, M.P.

The 48TH Sitting proposed by the Hon. Elsie Muhanda, MP and seconded by the Hon. Dr. Robert Pukose, MP.

The 49TH Sitting proposed by Hon. (Dr.) Robert Pukose, M.P. and seconded by the Hon. Cecily Mbarire, M.P.

The 50TH Sitting proposed by the Hon. Gitau Faith Wairimu, M.P. and Seconded by Hon. Lemanken Aramat, M.P.

The 51ST Sitting proposed by the Hon. Tindi Nicholas Mwale, MP and seconded by the Hon. Ekomwa Lomenen James, M.P.

MIN. NO. 181/2018: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE ENERGY BILL, 2017.

The Committee Members unanimously adopted the Report on the consideration of the Energy Bill, 2017 on a proposal by the Hon. Cecily Mbarire and Seconded by the Hon. Dr. Robert Pukose, MP.

MIN. NO. 182/2018: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE ENERGY BILL, 2017.

The Committee Members unanimously adopted the Report on the consideration of the Petroleum(Exploration, Development and Production) Bill, 2017 on a proposal by the Hon.(Eng) Vincent Musyoka and Seconded by the Hon. Walter Owino, MP.

MIN. NO. 183/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Four O'clock in the evening.

SIGNED.....
(CHAIRPERSON)

DATE.....

MINUTES OF THE 30TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE PUBLIC HEARING ON ENERGY BILL, 2017 AND PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017 IN SUSWA, NAROK EAST SUB-COUNTY ON 13TH MARCH, 2018 AT 2:30PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. Clement Muturi Kigano, M.P.
3. The Hon. Walter Owino, MP
4. The Hon. Abdikhaim Osman Mohamed, M.P.
5. The Hon. Lemanken Aramat, M.P.

ABSENT WITH APOLOGY

1. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
2. The Hon. Cecily Mbarire, M.P.
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Ekomwa Lomenen James, M.P.
5. The Hon. Mohammed Ali Lokiro, MP
6. The Hon. Gitau Faith Wairimu, M.P.
7. The Hon. Ken Chonga, MP
8. The Hon. Tindi Nicholas Mwale, MP
9. The Hon. Amina Gedow Hassan, M.P.
10. The Hon. Julius Musili Mawathe, MP
11. The Hon. Elisha Odhiambo, MP
12. The Hon. Elsie Muhanda, MP
13. The Hon. Oscar Sudi, Kipchumba, M.P.
14. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: MEMBERS OF THE PUBLIC IN SUSWA, NAROK EAST SUB-COUNTY, NAROK COUNTY

(Attached herein the signed attendance sheets of the names of the persons present).

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Douglas Katho - Clerk Assistant III
2. Ms. Naserian Lotuai - Clerk Assistant III
3. Ms. Sheila Chebotibin - Serjeant-At_Arms
4. Mr. Nickson Mutai - Audio Recording Officer

MIN. NO. 107/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 108/2018: CONSIDERATION OF THE SUBMISSIONS FROM THE MEMBERS OF THE PUBLIC AT IN SUSWA, NAROK EAST SUB-COUNTY IN NAROK COUNTY.

The committee heard submissions from the Community in Narok Suswa and noted the following:-

- i. That the local community should benefit from the royalties up to 15% whereas the opportunities in the companies should be able get about 50% of the tenders available in the Company.
- ii. The drilling companies must provide an alternative to the livelihood since the Community is dependent on environment for provisions.
- iii. The host community should be given opportunity to purchase shares in the company that is undertaking the generation of thermal power.
- iv. The inter-county boundaries to be specified to avoid conflicts.
- v. The host Community to be represented in the advisory Committee and various boards required.
- vi. The definition of the local community to be defined as a radius of 15KM.
- vii. Compensation should be prompt to the displaced community.
- viii. The Corporate Social Responsibility should be consultative with the leadership local community and opportunities provided for employment adequately.
- ix. The development company should strategically focus on imparting skills and provision of resources to the host community for sustainability of the Community.

MIN. NO. 109/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins to Seven O'clock.

SIGNED.....

.....(CHAIRPERSON).....

DATE.....10-04-2018.....

MINUTES OF THE 29TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE PUBLIC HEARING ON ENERGY BILL, 2017 AND PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017 IN KAMERE, NAIVASHA ON 13TH MARCH, 2018 AT 10.30aM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. Clement Muturi Kigano, M.P.
3. The Hon. Walter Owino, MP
4. The Hon. Abdikhaim Osman Mohamed, M.P
5. The Hon. Lemanken Aramat, M.P.

ABSENT WITH APOLOGY

1. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
2. The Hon. Cecily Mbarire, M.P.
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Ekomwa Lomenen James, M.P.
5. The Hon. Mohammed Ali Lokiro, MP
6. The Hon. Gitau Faith Wairimu, M.P.
7. The Hon. Ken Chonga, MP
8. The Hon. Tindi Nicholas Mwale, MP
9. The Hon. Amina Gedow Hassan, M.P
10. The Hon. Julius Musili Mawathe, MP
11. The Hon. Elisha Odhiambo, MP
12. The Hon. Elsie Muhanda, MP
13. The Hon. Oscar Sudi, Kipchumba, M.P.
14. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: MEMBERS OF THE PUBLIC IN KAMERE, NAIVASHA SUB-COUNTY, NAKURU COUNTY

(Attached herein the signed attendance sheets of the names of the persons present).

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Douglas Katho - Clerk Assistant III
2. Ms. Naserian Lotuai - Clerk Assistant III
3. Ms. Sheila Chebotibin - Serjeant-At_Arms
4. Mr. Nickson Mutai - Audio Recording Officer

MIN. NO. 104/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 105/2018: CONSIDERATION OF THE SUBMISSIONS FROM THE MEMBERS OF THE PUBLIC AT KAMERE IN OLKARIA, NAIVASHA SUB-COUNTY IN NAKURU COUNTY.

The members of the public made the following submissions:-

- i. The Corporate Social Responsibility to be entrenched as law in the bills.
- ii. The inter-boundaries should be well defined to prevent conflict over geothermal resources.
- iii. There needs to be very adverse penalty or fines on the interference of the beacons or boundaries.
- iv. Interference of Human settlement should be compensated in a systematic manner.
- v. The Local community to have at least 15% to the local Community and 30%-40% for the County Government.
- vi. The Companies should offer training and support in essential skills allow local community to get involved into the tendering processes by at least 50%.
- vii. The water is very scarce and not available and therefore the residents are alleging that not of their young people cannot be enlisted into the KDF.
- viii. The Electricity tariff should be zoned to cushion the areas that are near the power generating station.
- ix. The Company's generating power need to get involved in promoting the cultural heritage of the host communities and any other alternative livelihoods so that they don't over rely on the companies.

MIN. NO. 106/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins to One O'clock.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 28TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE PUBLIC HEARING ON ENERGY BILL, 2017 AND PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017 IN BAHATI ON 12TH MARCH, 2018 AT 2.30PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. Clement Muturi Kigano, M.P.
3. The Hon. Walter Owino, MP
4. The Hon. Abdikhaim Osman Mohamed, M.P
5. The Hon. Lemanken Aramat, M.P.

ABSENT WITH APOLOGY

1. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
2. The Hon. Cecily Mbarire, M.P.
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Ekomwa Lomenen James, M.P.
5. The Hon. Mohammed Ali Lokiro, MP
6. The Hon. Gitau Faith Wairimu, M.P.
7. The Hon. Ken Chonga, MP
8. The Hon. Tindi Nicholas Mwale, MP
9. The Hon. Amina Gedow Hassan, M.P
10. The Hon. Julius Musili Mawathe, MP
11. The Hon. Elisha Odhiambo, MP
12. The Hon. Elsie Muhanda, MP
13. The Hon. Oscar Sudi, Kipchumba, M.P.
14. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: NAKURU COUNTY ASSEMBLY

1. Hon. Joel M. Kairu - Speaker of the Nakuru County Assembly
2. Hon. Stanley Karanja - Majority Leader
3. Mr. Joseph Malimali - Clerk of the Nakuru County Assembly.
4. Ms. Mwachii Lillian - Clerk Assistant, Environment Committee.

IN ATTENDANCE: HON. MEMBERS OF THE NAKURU COUNTY ASSEMBLY AND THE PUBLIC IN NAKURU TOWN, NAKURU COUNTY

(Attached herein the signed attendance sheets of the names of the persons present).

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Douglas Katho - Clerk Assistant III
2. Ms. Naserian Lotuai - Clerk Assistant III
3. Ms. Sheila Chebotibin - Serjeant-At_Arms
4. Mr. Nickson Mutai - Audio Recording Officer

MIN. NO. 101/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 102/2018: CONSIDERATION OF THE SUBMISSIONS FROM THE MEMBERS OF THE PUBLIC AT WANYORORO GARAGE IN BAHATI SUB-COUNTY IN NAKURU COUNTY.

The members of the public made the following submissions:-

- i. The revenue sharing should be based on production target.
- ii. The opportunity for employment should have a basis in the new law especially to take care of the interest of the.
- iii. The interests of the people living with Disability should be able to secure opportunities especially in the area of procurement.
- iv. The people of Nakuru East Constituency informed the Committee that the President reservation on the Bill is very important and that the Committee ought to take that into consideration the reservations when they are handling the provisions in this Bill to ensure that it does not get bottle necks in the legislation process.
- v. The Committee was informed that the corporate social responsibility CSR to be entrenched into the bill to ensure compliance of the law and it becomes an obligation.
- vi. The Committee was informed the monopoly of the Kenya Power and Lightening Company should be discouraged in the bill so as to allow a robust competition
- vii. The Committee was also informed that alternative sources of Energy such as Biogas and wind power need to be explored to reduce over-reliance on the thermal power.
- viii. The Committee was informed that the environmental effects on the Bill should not be able to override the benefits of the Bill.
- ix. ~~The Boards of these statutory authorities in the Energy and Petroleum Sectors ought to incorporate the locals to ensure that the interests of the host community are taken care of.~~

MIN. NO. 103/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins to Six O'clock.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 27TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE PUBLIC HEARING ON ENERGY BILL, 2017 AND PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017 IN BAHATI ON 12TH MARCH, 2018 AT 10.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. Clement Muturi Kigano, M.P.
3. The Hon. Walter Owino, MP
4. The Hon. Abdikhaim Osman Mohamed, M.P.
5. The Hon. Lemanken Aramat, M.P.

ABSENT WITH APOLOGY

1. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
2. The Hon. Cecily Mbarire, M.P.
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Ekomwa Lomenen James, M.P.
5. The Hon. Mohammed Ali Lokiro, MP
6. The Hon. Gitau Faith Wairimu, M.P.
7. The Hon. Ken Chonga, MP
8. The Hon. Tindi Nicholas Mwale, MP
9. The Hon. Amina Gedow Hassan, M.P.
10. The Hon. Julius Musili Mawathe, MP
11. The Hon. Elisha Odhiambo, MP
12. The Hon. Elsie Muhanda, MP
13. The Hon. Oscar Sudi, Kipchumba, M.P.
14. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: GEOTHERMAL DEVELOPMENT COMPANY

1. Mr. Paul Ngugi - GDC
2. Ms. Grace Mwai - GDC
3. Ms. Sarah Safani - GDC

IN ATTENDANCE: MEMBERS OF THE PUBLIC IN BAHATI SUB-COUNTY,
NAKURU COUNTY

(Attached herein the signed attendance sheets of the names of the persons present).

IN ATTENDANCE: NATIONAL ASSEMBLY

4. Mr. Douglas Katho - Clerk Assistant III
5. Ms. Naserian Lotuai - Clerk Assistant III
6. Ms. Sheila Chebotibin - Serjeant-At_Arms
7. Mr. Nickson Mutai - Audio Recording Officer

MIN. NO. 098/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 099/2018: CONSIDERATION OF THE SUBMISSIONS FROM THE MEMBERS OF THE PUBLIC AT WANYORORO GARAGE IN BAHATI SUB-COUNTY IN NAKURU COUNTY.

The Committee received submissions from the residents of Wanyororo Garage in Bahati Constituency as follows:-

- i. The Community informed the committee that the investments opportunities available should be allocated to the local Community up to 75%.
- ii. The Community informed the Committee that the relationship between the Community and the Current Geothermal Development Company is very much strained and needs to be re-worked.
- iii. That employment opportunity for the host Community should be at 30%.
- iv. The community requested that an audit of the Geothermal Development Company should be undertaken since its inception to ensure that the board members to be from the power generation sub-counties.
- v. The public submitted that the GDC should atleast sensitize members of the community on matters of that will restore the confidence of the host Community in GDC such as the side effects of environmental degradation.
- vi. The Community informed the Committee that in order to ensure that the power generated at the GDC is well utilized, there is need to set up an industrial park in Menengai.
- vii. The Community also informed the members of the Energy Committee that the steam that is Generated form the geothermal power can be utilized for other uses such as tanning of leather and therefore creating opportunity especially for the youth.
- viii. The Community also informed the Committee that the forest land within Menengai has been leased which is an anomaly.

MIN. NO. 100/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins to One O'clock.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 26TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE PUBLIC HEARING ON ENERGY BILL, 2017 AND PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017 IN LODWAR ON 10TH MARCH, 2018 AT 2.00PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Abdikhaim Osman Mohamed, M.P.
5. The Hon. Ekomwa Lomenen James, M.P.
6. The Hon. Mohammed Ali Lokiro, MP
7. The Hon. Lemanken Aramat, M.P.

ABSENT WITH APOLOGY

1. The Hon. Cecily Mbarire, M.P.
2. The Hon. Joseph Wathigo Manje, M.P.
3. The Hon. Gitau Faith Wairimu, M.P.
4. The Hon. Ken Chonga, MP
5. The Hon. Tindi Nicholas Mwale, MP
6. The Hon. Amina Gedow Hassan, M.P
7. The Hon. Julius Musili Mawathe, MP
8. The Hon. Walter Owino, MP
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Oscar Sudi, Kipchumba, M.P.
12. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: TULLOW OIL COMPANY

1. Mr. Mungatana Forward - General Manager Tullow
2. Mr. Joseph Labaach - Tullow Kenya
3. Mr. Eregae Hannington - Tullow Kenya

IN ATTENDANCE: MINISTRY OF PETROLUEM AND MINING

Mr. Victor Mudachi - Engineer

IN ATTENDANCE: MEMBERS OF THE PUBLIC IN TURKANA CENTRAL SUB-COUNTY.

(Attached herein the signed attendance sheets of the names of the persons present).

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant III
3. Ms. Naserian Lotuai - Clerk Assistant III
4. Mr. Dan Kirwa - Security Officer
5. Mr. John Nganga - Audio Recording Officer

MIN. NO. 095/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 096/2018: CONSIDERATION OF THE SUBMISSIONS FROM THE MEMBERS OF THE PUBLIC IN TURKANA CENTRAL SUB-COUNTY IN LODWAR.

The Committee received submissions from the members of the Public in Turkana Central Sub-County in Lodwar as follows:-

- i. That the indigenous community should be accorded their territorial ownership of land.
- ii. National values of accountability to be entrenched when sharing the oil revenue,
- iii. The capping of the oil revenue to be removed and the revenue share for the community to be 10% of the oil extracted from the ground before expenses.
- iv. That an ESIA should be provided to the public to make decisions and that compensation of land use should be introduced in the bill.
- v. The community to form cooperatives to ensure that they tap on the opportunities available as the development and the production of oil is being carried on.
- vi. That the women, youth and elders of these host community to be given opportunities which should be specified in the bill to avoid being short-changed.
- vii. That the People Living disabilities to be given 5% opportunity and should not be lumped together with the youth and women in providing opportunity.
- viii. The contracts signed to be circulated to the community and that Community representation must be adhered to.
- ix. ~~The government should be barred from borrowing Money received from petrol proceeds as well as importation of energy from Ethiopia.~~
- x. The definition of a local personnel to be distinct from a local coming from the host community.
- xi. The investors need to put up a waste management program on hazardous deposits.
- xii. The production costs of the oil will have to be audited to enable the community to avoid losing out on profits and to ascertain the revenue realized from Petrol.

MIN. NO. 097/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins to Four O'clock.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 25TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE PUBLIC HEARING ON ENERGY BILL, 2017 AND PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017 IN LODWAR ON 10TH MARCH, 2018 AT 8.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Abdikhaim Osman Mohamed, M.P.
5. The Hon. Ekomwa Lomenen James, M.P.
6. The Hon. Mohammed Ali Lokiro, MP
7. The Hon. Lemanken Aramat, M.P.

ABSENT WITH APOLOGY

1. The Hon. Cecily Mbarire, M.P.
2. The Hon. Joseph Wathigo Manje, M.P.
3. The Hon. Gitau Faith Wairimu, M.P.
4. The Hon. Ken Chonga, MP
5. The Hon. Tindi Nicholas Mwale, MP
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Julius Musili Mawathe, MP
8. The Hon. Walter Owino, MP
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Oscar Sudi, Kipchumba, M.P.
12. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: TULLOW OIL COMPANY

1. Mr. Mungatana Forward - General Manager Tullow
2. Mr. Joseph Labaach - Tullow Kenya
3. Mr. Eregae Hannington - Tullow Kenya

IN ATTENDANCE: MINISTRY OF PETROLUEM AND MINING

Mr. Victor Mudachi - Engineer

IN ATTENDANCE: TURKANA COUNTY GOVERNEMENT

1. H.E. Josphat Nanok - Governor, Turkana County Government.
2. Mr. Emathe Namuar - County Executive Member for Water Services, Environment and Mineral Resources.
3. Norbert Okumu - Legal Advisor to the Governor of Turkana County.

IN ATTENDANCE: TURKANA COUNTY ASSEMBLY

1. Hon. Ekitela Lokaale - Speaker, Turkana County Assembly.
2. Hon. Kobongin Bethldel - Leader of Majority
3. Mr. Vinson Ekai - Clerk Assistant
4. Mr. Ekal Lokiruka - Director, Legal

IN ATTENDANCE: HON. MEMBERS OF THE TURKANA COUNTY ASSEMBLY THE MEMBERS OF THE PUBLIC AT THE TURKANA COUNTY ASSEMBLY.

(Attached herein the signed attendance sheets of the names of the persons present).

IN ATTENDANCE:	NATIONAL ASSEMBLY
1. Mr. Benjamin Magut	- Clerk Assistant I
2. Mr. Douglas Katho	- Clerk Assistant III
3. Ms. Naserian Lotuai	- Clerk Assistant III
4. Mr. Dan Kirwa	- Security Officer
5. Mr. John Nganga	- Audio Recording Officer

MIN. NO. 092/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 093/2018: CONSIDERATION OF THE SUBMISSIONS FROM THE TURKANA COUNTY GOVERNEMENT

- a. The Governor of the Turkana County Government made submissions as follows: -
- i. the Turkana County Government appreciates the establishment of the upstream regulatory authority and therefore urged the Committee to recommend that the counties that are oil producing of should also be represented in that Authority.
 - ii. ~~the sharing of the proceeds residual to decommissioning of the production~~ should be treated as oil revenue and therefore the sharing shall be 20% to the County Government.
 - iii. That the local Content to the County government preserved at 20%.
 - iv. That the County Government to be allowed to make regulations to provide for the membership and the composition of the trust fund.
 - v. That the revenue share will not be realized because of the capping. Though absorption capacity may the reason for the capping, however the county government proposes that a fund be established to direct the capped fund allocated is safe.
 - vi. That the definition of the host community to remain as a sub-county.
 - vii. The oil field in Turkana East and South are prone to insecurity and therefore the security of the pipeline is very paramount and therefore the County government proposed that a national disaster operation Centre be established to deal with any occurrence.
 - viii. The Ministry of Petroleum needs to sensitize people on the early oil project.

- ix. That the information flow from the County to the head of state is not seamless and that the Security agencies have no clue of what is going on at the community level.
- x. The Committee was informed that the Ministry or rather Tullow oil has not provided enough briefs to allow them make informed decision.
- xi. The County Government urged the Committee that the approach of the public participation and problem solving should be bottom-up to allow for exhaustion of all mechanisms of the grassroots level.

b. Submissions from the Turkana County Assembly

The Speaker of the Turkana County Assembly made a presentation on behalf of the Turkana County Assembly and the following were the highlights of the presentation:-

- i. Future areas with natural resources such as Geothermal, coal and solar can borrow from this national legislation of petroleum.
- ii. Revenue share to the local community to be 10% while other governments to be 90% and that capping to be removed from the provisions of the bill completely.
- iii. That the Commission for Revenue Allocation formulae is based on issues that are not relevant to Petroleum and that Petroleum production will alter change in land use.
- iv. To avoid low absorption rate of resources the procurement laws should be simplified since Turkana County needs at least 40B to actualize the County Integrated Development plan.
- v. That the trust fund its membership is very key in the utilization of the revenue share and that an extensive public participation and civic education should be carried out.

MIN. NO. 094/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past One O'clock.

SIGNED.....

(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 24TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE PUBLIC HEARING ON ENERGY BILL, 2017 AND PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017 IN NAKUKULASS ON 9TH MARCH, 2018 AT 2.30PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Abdikhaim Osman Mohamed, M.P.
5. The Hon. Ekomwa Lomenen James, M.P.
6. The Hon. Mohammed Ali Lokiro, MP
7. The Hon. Lemanken Aramat, M.P.

ABSENT WITH APOLOGY

1. The Hon. Cecily Mbarire, M.P.
2. The Hon. Joseph Wathigo Manje, M.P.
3. The Hon. Gitau Faith Wairimu, M.P.
4. The Hon. Ken Chonga, MP
5. The Hon. Tindi Nicholas Mwale, MP
6. The Hon. Amina Gedow Hassan, M.P
7. The Hon. Julius Musili Mawathe, MP
8. The Hon. Walter Owino, MP
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Oscar Sudi, Kipchumba, M.P.
12. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: TULLOW OIL COMPANY

1. Mr. Mungatana Forward - General Manager Tullow
2. Ms. Mitchel Boit - Senior Project Engineer
3. Mr. Joseph Labaach - Tullow Kenya
4. Mr. Eregae Hannington - Tullow Kenya

IN ATTENDANCE: MINISTRY OF PETROLUEM AND MINING

Mr. Victor Mudachi - Engineer

IN ATTENDANCE: MEMBERS OF THE TURKANA EAST SUB-COUNTY PROFESSIONALS FORUM AND THE MEMBERS OF THE PUBLIC IN NAKUKULASS.

(Attached herein the signed attendance sheets of the names of the persons present).

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant III
3. Ms. Naserian Lotuai - Clerk Assistant III
4. Mr. Dan Kirwa - Security Officer
5. Mr. John Nganga - Audio Recording Officer

MIN. NO. 089/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 090/2018: CONSIDERATION OF THE SUBMISSIONS FROM THE TURKANA EAST SUB-COUNTY.

- i. The people of Nakukulass informed the Committee that they wish to select the persons who should sit on the trust fund and send the names to the County Assembly for consideration and approval and not that the County leadership to nominate.
- ii. The Community was also concern that the local content should be able to facilitate more social infrastructure to the Community.
- iii. The elders of Nakukulass also informed the committee that representation of the Communities that produce oil resources need to be done at all entities that deal with oil such as the Trust funds and the regulatory authorities specified in the bill.

MIN. NO. 091/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Four O'clock.

SIGNED.....

(CHAIRPERSON)

DATE.....

10-04-2018

MINUTES OF THE 23RD SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE PUBLIC HEARING ON ENERGY BILL, 2017 AND PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017 IN LOKORI ON 9TH MARCH, 2018 AT 10.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Abdikhaim Osman Mohamed, M.P.
5. The Hon. Ekomwa Lomenen James, M.P.
6. The Hon. Mohammed Ali Lokiro, MP
7. The Hon. Lemanken Aramat, M.P.

ABSENT WITH APOLOGY

1. The Hon. Cecily Mbarire, M.P.
2. The Hon. Joseph Wathigo Manje, M.P.
3. The Hon. Gitau Faith Wairimu, M.P.
4. The Hon. Ken Chonga, MP
5. The Hon. Tindi Nicholas Mwale, MP
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Julius Musili Mawathe, MP
8. The Hon. Walter Owino, MP
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Oscar Sudi, Kipchumba, M.P.
12. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: TULLOW OIL COMPANY

1. Mr. Mungatana Forward - General Manager Tullow
2. Ms. Mitchel Boit - Senior Project Engineer
3. Mr. Joseph Labaach - Tullow Kenya
4. Mr. Eregae Hannington - Tullow Kenya

IN ATTENDANCE: MINISTRY OF PETROLUEM AND MINING

Mr. Victor Mudachi - Engineer

IN ATTENDANCE: MEMBERS OF THE TURKANA EAST SUB-COUNTY PROFESSIONALS FORUM AND THE MEMBERS OF THE PUBLIC IN LOKORI.

(Attached herein the signed attendance sheets of the names of the persons present).

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant III
3. Ms. Naserian Lotuai - Clerk Assistant III
4. Mr. Dan Kirwa - Security Officer
5. Mr. John Nganga - Audio Recording Officer

MIN. NO. 086/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 087/2018: CONSIDERATION OF THE SUBMISSIONS FROM THE TURKANA EAST SUB-COUNTY.

The members of the public made the following submissions:-

- i. They expressed the need to maintain the percentages as 10% for the local Community and 20% for the County government while the rest 70% for the national government.
- ii. That the capping of the revenue share should be done away with completely in the Bill.
- iii. That the compensations should be done promptly and that the road to Kapedo to be concluded and also inclusion of the youth in the opportunities.
- iv. They asked the Committee to define the Community land in the bill and that all aspects of training need to be given preference to the local community since the literacy level are not encouraging in Turkana County.
- v. The Community informed the Committee that the 10% of the revenue share to be used for social infrastructure projects.
- vi. A resource center should be set up for people living with disability and a thoughtful consideration of the people who are living with disability on job placements in the Oil projects.
- vii. The Community also informed the Committee that the taxation on rates paid for compensation should be done away with.

MIN. NO. 088/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past One O'clock.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 22ND SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE PUBLIC HEARING ON ENERGY BILL, 2017 AND PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017 IN LOKICHAR ON 8TH MARCH, 2018 AT 2.30PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Abdikhaim Osman Mohamed, M.P.
5. The Hon. Ekomwa Lomenen James, M.P.
6. The Hon. Mohammed Ali Lokiro, MP
7. The Hon. Lemanken Aramat, M.P.

ABSENT WITH APOLOGY

1. The Hon. Cecily Mbarire, M.P.
2. The Hon. Joseph Wathigo Manje, M.P.
3. The Hon. Gitau Faith Wairimu, M.P.
4. The Hon. Ken Chonga, MP
5. The Hon. Tindi Nicholas Mwale, MP
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Julius Musili Mawathe, MP
8. The Hon. Walter Owino, MP
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Oscar Sudi, Kipchumba, M.P.
12. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: TULLOW OIL COMPANY

1. Mr. Mungatana Forward - General Manager Tullow
2. Ms. Mitchel Boit - Senior Project Engineer
3. Mr. Joseph Labaach - Tullow Kenya
4. Mr. Eregae Hannington - Tullow Kenya

IN ATTENDANCE: MINISTRY OF PETROLUEM AND MINING

Mr. Victor Mudachi - Engineer

IN ATTENDANCE: MEMBERS OF THE TURKANA SOUTH PROFESSIONALS FORUM AND THE MEMBERS OF THE PUBLIC.

(Attached herein the signed attendance sheets of the names of the persons present).

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant III
3. Ms. Naserian Lotuai - Clerk Assistant III
4. Mr. Dan Kirwa - Security Officer
5. Mr. John Nganga - Audio Recording Officer

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 084/2018: CONSIDERATION OF THE SUBMISSIONS FROM THE TURKANA SOUTH SUB-COUNTY.

a. Public hearing in Turkana Sub-county at Lokichar

The members of the public made the following submissions:-

- i. The Community was concern with the composition of the advisory board and the board of trustees in the trust fund.
- ii. The Community also informed the committee on how the resources should benefit everyone in an equitable way.
- iii. They advised the Committee that the community should decide on how the resources would benefit everyone and it is their wish that the revenue share to be 10%, 20% and 70% shared to the host Community, the County government and the National government respectively whereas other was of the opinion that revenue share should be 50%-50% basis.
- iv. The Community raised concerns with environment and that and that a proper assessment should be done to ensure that the effects of the production of oil are not adverse and if need be there should be in place a mechanism to mitigate on these effects.

b. Meeting with Turkana South Professionals at Lokichar

The members of the public made the following submissions:-

- i. They informed the Community that based on the resource requirement and demand on the community, they recommend a 10% revenue share to the local community.
- ii. They were also concerned with any environmental degradation that will come with oil production should be dealt with before the start of the production.
- iii. They also expressed their reservation on the capping of revenue share that it should be removed to ensure that the marginalized areas are well developed.
- iv. The professional informed the Committee that punitive measures should be put in place to ensure adherence to 30% procurement opportunities for women, the youth, and people living disabilities.
- v. The Committee was informed that compensation should be taken into account both at the natural resource level as well as the human resource levels especially when compensation workers such as drivers.
- vi. The Professional also informed the Committee that to avoid encroachment into forest reserves when constructing the pipeline; the contacting company should be able to transport the crude fuel by road so as to provide more opportunity for the locals.
- vii. The local content should be applied strictly on tenders and opportunities herein too.
- viii. The professional Concluded by urging the committee to ensure an exit plan that is very sustainable to the local community and also very punitive measures on people who would violate the law.

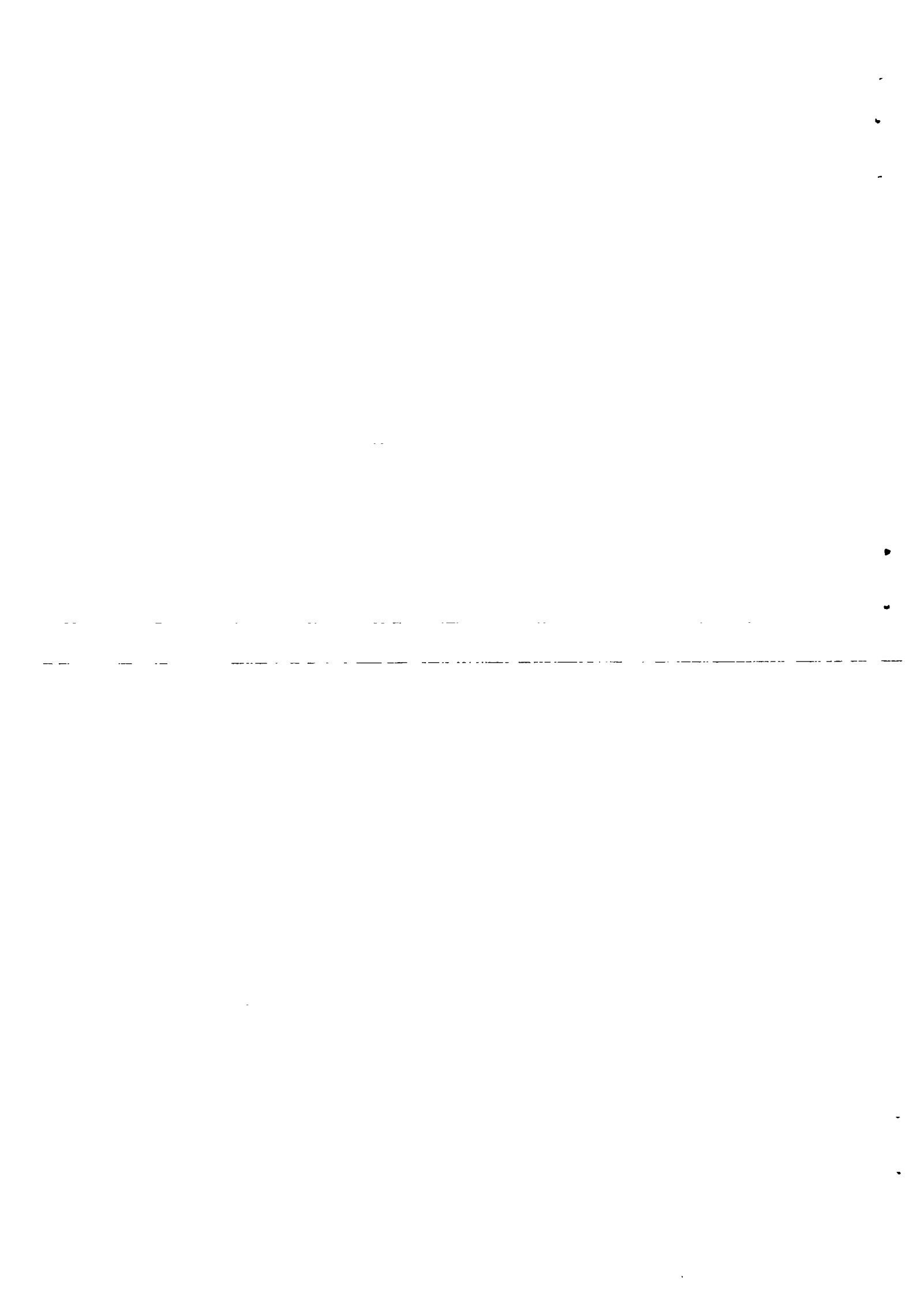
MIN. NO. 085/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Eight O'clock in the night.

SIGNED.....

(CHAIRPERSON)

DATE..... 10-04-2018



MINUTES OF THE 21ST SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD DURING THE PUBLIC HEARING ON ENERGY BILL, 2017 AND PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017 IN THE BOARD ROOM OF TULLOW OIL COMPANY IN KAPESE ON 8TH MARCH, 2018 AT 10.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Abdikhaim Osman Mohamed, M.P.
5. The Hon. Ekomwa Lomenen James, M.P.
6. The Hon. Mohammed Ali Lokiro, MP
7. The Hon. Lemanken Aramat, M.P.

ABSENT WITH APOLOGY

1. The Hon. Cecily Mbarire, M.P.
2. The Hon. Joseph Wathigo Manje, M.P.
3. The Hon. Gitau Faith Wairimu, M.P.
4. The Hon. Ken Chonga, MP
5. The Hon. Tindi Nicholas Mwale, MP
6. The Hon. Amina Gedow Hassan, M.P
7. The Hon. Julius Musili Mawathe, MP
8. The Hon. Walter Owino, MP
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Oscar Sudi, Kipchumba, M.P.
12. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: TULLOW OIL COMPANY

1. Mr. Mungatana Forward - General Manager Tullow
2. Ms. Mitchel Boit - Senior Project Engineer
3. Mr. Joseph Labaach - Tullow Kenya
4. Mr. Eregae Hannington - Tullow Kenya

IN ATTENDANCE: MINISTRY OF PETROLUEM AND MINING

Mr. Victor Mudachi - Engineer

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant III
3. Ms. Naserian Lotuai - Clerk Assistant III
4. Mr. Dan Kirwa - Security Officer
5. Mr. John Nganga - Audio Recording Officer

MIN. NO. 080/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 081/2018: CONSIDERATION OF THE SUBMISSIONS FROM
TULLOW OIL COMPANY.

The Committee received submissions from the Tullow oil and made the following observations: -

- i. Tullow oil is Canadian company established in 16 countries, majority of about 60% being in Africa.
- ii. Tullow oil has a five-year license which is one of the over fifty licenses that the government of Kenya has issued for the purposes of exploring oil wells.
- iii. Tullow has drilled about 40 wells and another 80 wells have been drilled by parties with interest to Total Company.
- iv. Tullow oil informed the Committee that petroleum extraction is divided into three phases which are exploration, development and production.
- v. The exploration and the development phases normally lasts for 5 to 10 years each while the production phase would last between 20 to 50years depending on the oil resource.
- vi. The Committee was informed that the company is working towards achieving an early oil by June 2018.
- vii. Tullow oil informed the Committee that there are many opportunity available in the supply chain as well as the social infrastructure to the local community.
- viii. The community is the first line of defense and therefore they do not envisage any threats or sabotage along the proposed pipeline.
- ix. Tullow oil explained that the sustainability of the local community is dependent on the social infrastructure that they have put in place, capacity building on training as well as the alternative source of livelihood.
- x. Tullow oil has recorded a tremendous 80% success rate in the exploration phase.

MIN. NO. 082/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past One O'clock.

SIGNED.....

(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 20TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE COMMITTEE ROOM ON 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON THURSDAY 1ST MARCH, 2018 AT 11.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Joseph Wathigo Manje, M.P.
5. The Hon. Abdikhaim Osman Mohamed, M.P.
6. The Hon. Elisha Odhiambo, MP
7. The Hon. Elsie Muhanda, MP
8. The Hon. Gitau Faith Wairimu, M.P.
9. The Hon. Ken Chonga, MP
10. The Hon. Mohammed Ali Lokiro, MP
11. The Hon. Tindi Nicholas Mwale, MP
12. The Hon. Lemanken Aramat, M.P.
13. The Hon. Amina Gedow Hassan, M.P.
14. The Hon. Julius Musili Mawathe, MP
15. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Ekomwa Lomenen James, M.P.
2. The Hon. Oscar Sudi, Kipchumba, M.P.
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant III
3. Ms. Jemimah Waigwa - Legal Counsel II
4. Ms. Brigita Mate - Legal Counsel II
5. Mr. Eugene Apaa - Research Officer III
6. Mr. Moge Yussuf - Fiscal Analyst III
7. Mr. John Nganga - Audio Recording Officer

MIN. NO. 077/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 078/2018: CONSIDERATION OF THE MEMORANDA RECEIVED REGARDING THE ENERGY BILL, 2017 AND THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017.

The Committee was taken through a matrix of the memoranda received regarding the Energy Bill, 2017 and the Petroleum(Exploration, Development and Production) Bill 2017 as follows:-

Proposing Entity

COUNCIL OF GOVERNORS
TURKANA COUNTY ASSEMBLY and ANAJARWALLA AND KHANNA
NATIONAL OIL
KCSPOG and Natural Justice
KCSPOG
TECUSA and TURUKANA COUNTY YOUTH COUNCIL
KEPSA AND KOGA
A&K
KOCHODIN PROFESSIONALS GROUP, TCUSA and TURUKANA COUNTY YOUTH COUNCIL

Clauses in the Petroleum Bill, 2017 that amendments have been proposed.

Clause 2 Interpretation
“local community” means a people living in a sub-county within which a petroleum resource under this Act is situated and are affected by the exploitation of that petroleum resource;
Definition of local content
Scope of the Act (1) This Act shall apply to all upstream petroleum operations being carried out in Kenya. (2) The scope of this Act shall not include midstream or downstream petroleum operations.
National upstream petroleum policy The Cabinet Secretary shall ensure that relevant stakeholders participate effectively in the making of the national policy on upstream petroleum operations.
Clause 6(3) National upstream petroleum strategy The Cabinet Secretary shall prescribe Regulations in relation to the content and timelines for the preparation of the upstream petroleum strategic plan.
Conduct of Upstream Petroleum Operations (3) The national government may conduct upstream petroleum operations either— (a) on its own through the national oil company; (b) through contractors in accordance with petroleum agreements; or (c) as may be prescribed by this Act or any other written law.
Clause 8(4) Conduct of upstream operations Subject to this Act, and in accordance with the terms and conditions of a petroleum agreement, the National government may authorize a contractor to engage in upstream petroleum operations within a specified area.
Clause 8(5) Conduct of upstream operations Notwithstanding the provisions of this Clause, the national government may grant to any person, other than the contractor, a permit for the prospecting and mining of minerals or other natural resources other than petroleum or the conduct of operations other than upstream petroleum operations within an area covered by a petroleum agreement
Clause 9(1) Promotion of petroleum Upstream investments The national government shall create a conducive environment for investments in upstream petroleum operations and infrastructure development, including formulation of guidelines in collaboration with relevant national government agencies on development of

Upstream petroleum investments and to disseminate them among potential investors.
Promotion of upstream petroleum (3) In its effort to promote upstream petroleum operations and investments, the national government shall facilitate access to land for exploration activities in accordance with the Constitution and any other written law.
Promotion of upstream petroleum 9(3)
Establishment of the National Upstream Petroleum Advisory Committee. (5) The Advisory Committee shall, in co-opting members to sit in the Committee, ensure that the persons co-opted have the necessary knowledge and experience in the matters under consideration by the Committee.
Functions of the Authority.
Clause 15 Functions of the Authority The functions of the Authority shall be to- (t) develop guidelines, in consultation with other statutory authorities, in relation to the implementation of treaties, conventions or protocols affecting the upstream petroleum sector that have been ratified by Kenya.
Powers of the Authority (2) The Director Public Prosecutions may, on the request of the Authority, appoint any officer of the Authority or an advocate of the High Court to be a public prosecutor for the purposes of prosecuting offences under this Act.
Board of Directors of the Authority. 17.(1) The management of the Authority shall vest in a Board of Directors which shall consist of— (e) five other members appointed by the Cabinet Secretary out of whom - (i) one person shall be nominated by the Kenya Private Sector Alliance;
How Authority shall exercise its powers and functions.
Clause 37 National Data Centre. The Authority shall establish a national data centre which shall be used for the storage, analysis, interpretation, and management of petroleum data and information from sedimentary basins and field operations.
Clause 37 National Data Centre
Clause 42(1) Constitution of blocks For the purposes of this Act, the Cabinet Secretary may, by notice in the Gazette, divide Kenya and its continental shelf into numbered areas which shall be defined by specific geographical co-ordinates, and each area shall be described as a "block".
Constitution of blocks
Negotiation, award and execution of petroleum agreements 1) Subject to section 50 the Cabinet Secretary shall negotiate, award and execute a petroleum agreement, on behalf of the National Government, in the form prescribed in the Second Schedule to this Act.
Clause 45 Negotiation, award and execution of petroleum agreements.
Operator (2) A contractor may substitute one operator for another operator as may be provided for in

the petroleum agreement and in this Act.

Grant of non-exclusive exploration permit

(3) The Authority shall inform each County Government affected by the non-exclusive exploration activities of the nature and status of such non-exclusive exploration activities.

Clause 51(1)

Operational permit

A contractor who intends to conduct upstream Operational petroleum operations shall apply to the Authority for an operational permit.

Operational Permits

(3) Despite the generality of sub-section (1), a contractor shall apply to the Authority for an operational permit to—

- (a) drill a well;
- (b) develop and produce petroleum;
- (c) construct petroleum gathering systems in the field;
- (d) build a crude oil storage facility;
- (e) plug or abandon an individual well;
- (f) operate an underground injection control well;
- (g) convert an individual well to an underground injection control well;
- (h) decommission or abandon an upstream petroleum facility;
- (i) develop, build, construct or operate a gas processing facility; or
- (j) remediate and reclaim upon the abandonment of a well or facility.

4) A contractor shall apply to the Authority for an operational permit for each well.

(5) An application for an operational permit shall include—

- (a) drilling permit for exploration, appraisal, development and production wells;
- (b) the global positioning system (GPS) location of each well;
- (c) a commitment by the contractor of the contractor's ability to construct a well site, access road to the well site, facilitate mobility of equipment, supplies, and materials to the well site during drilling, monitoring, appraisal and evaluation activities;

~~(10) A person who contravenes the provisions of this section commits an offence and upon conviction shall be liable to a fine of not less than ten million shillings or to a term of imprisonment of not less than two years or both.~~

(9) The Authority shall, in carrying out public participation under subsection (8)—

- (a) conduct the public participation through such means as may be necessary to ensure that the citizens within the respective county and the relevant stakeholders —
 - (ii) have sufficient notice of any decisions to be made or permits to be issued which may affect them; and
 - (iii) have an opportunity to obtain information with respect to any permit issued or decision made under sub-paragraph (i) or to submit their concerns or any information that they may have with respect to the issue under consideration;
- (c) publish any notices required for the purpose of informing the public through such forums including at least one newspaper of local circulation within the local community which is to be affected by the issue under consideration.

Clause 51(8)

Operational permit

The Authority, in collaboration with the contractor and any other relevant stakeholder, shall give the local community in a place where upstream petroleum operations are to be permitted adequate opportunity to participate in the process of reviewing and awarding permits under this Act.

(5) Transfer of interest in petroleum agreement.
Transfer of interest in petroleum agreement.
Report of discovery of Petroleum (3) A contractor who notifies the public of the discovery of petroleum or any other resource without having reported the discovery to the Cabinet Secretary or who notifies the public of the discovery without the approval of the Cabinet Secretary commits an offence and on conviction shall be liable to a penalty of not less than twenty million shillings.
Clause 55 (1) Notification prior to abandonment A contractor shall give the Authority notice of thirty days where the contractor intends to abandon a well.
Notification prior to abandonment. (3) A person who contravenes the provisions of this section commits an offence and upon conviction shall be liable to a fine of not less than twenty million shillings or to a term of imprisonment of not less than five years or both.
Clause 56(3) Surrender of blocks Where a contractor intends to partially surrender a block, that contractor shall submit to the Cabinet Secretary and the Authority the geological and geophysical data in relation to the block.
Ratification by Parliament (1) The Cabinet Secretary shall, within thirty days of the approval of a field development plan submitted in accordance with the terms of a production sharing contract entered into under this Act, submit the production sharing contract together with the field development plan to Parliament for ratification in accordance with Article 71 of the Constitution. (3) Parliament shall, in carrying out its obligation under sub-section (2), undertake public participation. (5) If Parliament does not within ninety days communicate its decision to either ratify or refusal to ratify the production sharing contract, it shall be deemed to have been ratified and the Cabinet Secretary may proceed to conclude the development plan with the Contractor.
(3) Parliament shall, in carrying out its obligation under sub-section (2), undertake public participation.
Clause 59 Petroleum production A contractor shall apply to the Authority for a Petroleum production permit and the application shall be accompanied production.
Restriction on removal of petroleum and samples (2) Any person who contravenes the provisions of sub-section (1) commits an offence and is liable on conviction to a fine of not less than twenty million shillings or to imprisonment for a term of not less than five years or to both.
(1) A contractor shall submit a field decommissioning plan to the Authority before a production permit to install and operate the facilities issued.
Clause 67(8) Decommissioning funds The management of the decommissioning fund shall be done by a committee consisting of representatives of the National Government and the contractor, in such manner as may be prescribed by regulations.
Removal of Property by the contractor (3) A person to whom directions are given under subsection (1) who refuses or neglects to comply with such directions within the period specified in the notice, commits an offence and

shall on conviction be liable to a fine not less than ten million shillings or imprisonment for a term not exceeding two years or both.
<p>Clause 70 Removal of property by contractor Where a production permit has been surrendered, expired, or has been relinquished by a contractor, the Authority shall by notice in writing served on the contractor, direct the contractor to— remove from the area which was.....</p>
<p>Clause 74 Contractor to furnish information It shall be the duty of every contractor to furnish the Cabinet Secretary and the Authority as the case may be at such times and in such form and manner, such information as the Cabinet Secretary and the Authority may in writing require.</p>
<p>False Information A person who refuses to furnish the information requested under section 74 or who makes a false statement or a statement which he has reason to believe is untrue, to the Cabinet Secretary, and to the Authority, as required under this Act, commits an offence and shall, on conviction, be liable to a fine of not less than twenty million shillings or to a term of imprisonment of not less than five years or both.</p>
Local content requirements.
(3)
(4)
<p>Monitoring and enforcement of local content. (1) The Authority shall supervise, co-ordinate, and manage the development of local content</p>
<p>Training and Training Fund (2) There shall be established a fund to be known as the Training Fund for the purpose of training Kenyan nationals in upstream petroleum operations.</p>
<p>Section 80 (3): Payments and Revenues (3) Taxes, profit petroleum and royalties from upstream petroleum operations shall be collected in accordance with the relevant tax laws and accounts provided to the National Government agency responsible for collection of taxes in the manner it prescribes.”</p>
<p>Sharing petroleum resource (2) The county government's share shall be equivalent to twenty percent of the national government's share. Provided that the amount allocated in accordance with this section shall not exceed the amount allocated to the county government by Parliament in the financial year under consideration</p>
<p>Clause 85 (3) Sharing petroleum resource The local community's share shall be equivalent to five percent of the Government's share and shall be payable to a trust fund managed by a board of trustees established by the county government in consultation with the local community: Provided that the amount allocated in accordance with this subsection shall not exceed one-quarter of the amount allocated to the county government by Parliament in the financial year under consideration.</p>
<p>Clause 85 (3) Sharing petroleum resource</p>
<p>Clause 85 (4) Sharing petroleum resource</p>
(4)
Clause 87

<p>Waste Management</p> <p>A person contracted by the contractor under subsection (2) shall not carry out those activities without being registered and licensed by the National Government agency responsible for environment and any other relevant National Government entity.</p>
<p>Waste Management</p> <p>(5) A person who carries on the management of the production, transportation, storage, treatment, clean up or disposal of waste arising out of upstream petroleum operations without a license or fails to comply with the terms and conditions prescribed in the license issued under subsection (4) commits an offence and is liable on conviction to a fine of not less than twenty million shillings or imprisonment of not less than five years or both.</p>
<p>Maintenance of property</p> <p>(3) A contractor who contravenes subsection (1) commits an offence and shall on conviction, be liable to a fine of not less than one million shillings or to a jail term of not less than six months or both.</p>
<p>Clause 89(1)</p> <p>Venting and flaring of natural gas.</p> <p>A contractor shall not vent or flare natural gas in the course of the conduct of upstream petroleum operations except with the prior authorization of the Authority in consultation with the National Government agency responsible for environment and safety and another National Government entity</p>
<p>Emergency Preparedness Measures</p>
<p>Clause 96</p> <p>Disaster Preparedness prevention and management unit.</p> <p>(1) The Cabinet Secretary shall establish a disaster preparedness, prevention and management unit within the Ministry to co-ordinate response to accidents, disasters and other emergencies that may occur within upstream petroleum operations.</p> <p>(2) The disaster preparedness, prevention and management unit shall collaborate with the National Disaster Operations Centre and other relevant institutions to ensure a timely response and emergency preparedness resource sharing.</p>
<p>Access to Land</p> <p>(2) A person who wishes to enter upon any land, other than that person's land to—</p> <p>(a) undertake exploratory activities relating to upstream petroleum operations; or</p> <p>(b) carry out a survey of the land for the purposes of paragraph (a); shall seek the prior consent of the owner of such land, which consent shall not be unreasonably withheld:</p> <p>Provided that where the owner cannot be traced, the applicant shall give thirty days' notice, by public advertisement, in at least two newspapers of nationwide circulation and through such other appropriate forum so as to ensure that the information is widely publicized within the local community in which the land exists.</p>
<p>Power of entry to inspect land.</p> <p>The National Land Commission may authorize in writing, any person to enter upon any land specified in section Error! Reference source not found. to inspect the land and to do all things that may be reasonably necessary to ascertain whether the land is suitable for the intended purpose.</p> <p>Provided that if there is any damage resulting from such entry the applicant shall pay in full, just compensation as is payable under the relevant written laws.</p>
<p>Installation of upstream petroleum infrastructure along roads and railways</p> <p>107. (1) For the purpose of the production and transportation of upstream petroleum, a contractor may erect, fix, install or lay any oil or gas pipelines, other infrastructure or apparatus in, through, upon, under, over or across any public street, road, railway, tramway, river, canal, harbour or National Government property in the manner and on the conditions as provided in this Act.</p>
<p>Installation of upstream petroleum infrastructure along roads, railways, etc</p>

Installation of upstream petroleum infrastructure along roads, railways, etc
Part X Miscellaneous Provisions
<p>General penalty</p> <p>Where any default in or contravention of any of the provisions of this Act is made for which no fine or penalty is expressly stated, the person so defaulting or contravening shall on conviction be liable to a fine of not less than five million shillings.</p>
Regulations by Cabinet Secretary
<p>Repeals, savings and transitional provisions.</p> <p>(2) Notwithstanding the provisions of subsection (1)—</p> <p>(f) the contractual rights and obligations existing pursuant to the Petroleum (Exploration and Production) Act are preserved</p> <p>(3) The powers and functions of the Authority under this Act shall in the interim period before the Authority is operationalized be exercised by the Energy Regulatory Commission established under section 4 of the Energy Act, 2006.</p>

MIN. NO. 079/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past One O'clock.

SIGNED.....

 (CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 19TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN ROOM 9, MAIN PARLIAMENT BUILDINGS ON THURSDAY 27TH FEBRUARY, 2018 AT 11.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Joseph Wathigo Manje, M.P.
5. The Hon. Abdikhaim Osman Mohamed, M.P.
6. The Hon. Elisha Odhiambo, MP
7. The Hon. Elsie Muhanda, MP
8. The Hon. Gitau Faith Wairimu, M.P.
9. The Hon. Ken Chonga, MP
10. The Hon. Mohammed Ali Lokiro, MP
11. The Hon. Tindi Nicholas Mwale, MP
12. The Hon. Lemanken Aramat, M.P.
13. The Hon. Amina Gedow Hassan, M.P.
14. The Hon. Julius Musili Mawathe, MP
15. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Ekomwa Lomenen James, M.P.
2. The Hon. Oscar Sudi, Kipchumba, M.P.
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: DELEGATION OF MEMBERS OF PARLIAMENT FROM REPUBLIC OF UGANDA

1. Hon. Birigwa Norah N. - Member of Parliament
2. Hon. Herbert Edmund Ariko - Member of Parliament
3. Hon. Nganda Patrick - Member of Parliament
4. Hon. Adeke Ann Ebaju - Member of Parliament
5. Hon. Kubalya Henry Mawire - Member of Parliament
6. Mr. Baiganya Lewis - Principal Clerk Assistant
7. Mr. John Tamde Nimrod - Legal/ Legislative Counsel

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant III
3. Ms. Jemimah Waigwa - Legal Counsel II
4. Ms. Brigita Mate - Legal Counsel II
5. Mr. Eugene Apaa - Research Officer III
6. Mr. Moge Yussuf - Fiscal Analyst III
7. Mr. John Nganga - Audio Recording Officer

MIN. NO. 074/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 075/2018: MEETING WITH A DELEGATION OF MEMEBRS OF PARLIAMENT FORM THE REPUBLIC OF UGANDA REGARDING LOCAL CONTENT.

The Committee was taken through an introduction to the Local Content Bill that was introduced to Kenya Parliament in 20116 in the senate by a private members initiative as follows:-

Introduction

1. In 2016, the Local Content Bill, 2016 was introduced in the Senate and it was due for division on the second reading before the term of the 11th parliament came to an end.
2. The bill was to provide for a framework to facilitate development and adoption of the local ownership, control and financing of activities connected with the exploitation of gas, oil and other mineral resources; to provide a framework to increase the local value capture along the value chain in the exploration of gas, oil and other mineral resources; and for connected purposes.
3. Local content means maximizing the level of usage of local goods and services, people, businesses and financing in the country.
4. The Bill was supposed to apply to all commercial activities related to the exploration, extraction, development and exploitation of oil, gas and other mineral resources in the extractive industry in Kenya in order to ensure-
 - a. the development of local economies;
 - b. stimulation of industrial development;
 - c. increase in local capability;
 - d. building of a skilled workforce; and
 - e. the creation of a competitive supplier base.

Objects and purpose of the bill

5. promote the maximisation of value-addition and the creation of employment opportunities in the extractive industry value chain through the use of local expertise, goods, services, businesses and financing and their retention in the country;
 - a. provide a framework for the—
 - b. establishment of a monitoring, evaluation and reporting system in the implementation of this bill;
 - c. development of indigenous skills across the extractive industry value chain; and
 - d. application of the mechanism of local content by an operator under this bill;
 - e. enhance the participation of local persons in extractive industry value chain;
 - f. facilitate the development of a competitive, capable and sustainable labour force;
 - g. enhance local ownership and use of local assets and services in the extractive industry; and
 - h. Maximise value addition through local content development and local participation in extractive industry operations.

Background of the Bill

6. The Bill is premised on Article 69(1) of the Constitution which imposes an obligation on the State to, among other things,–
 - a. ensure the sustainable exploitation, utilization, management and conservation of the environment and natural resources and ensure the equitable sharing of the accruing benefits; and
 - b. utilize the environment and natural resources for the benefit of the people of Kenya.
7. In addition, Article 66 of the Constitution confers on the State an obligation to regulate the use of land and property in Kenya “in the interest of defence, public safety, public order, public morality, public health or land use planning”. Clause (2) further provides that – *Parliament shall enact legislation ensuring that investments in property benefit local communities and their economies.*
8. The discovery of a number of natural resources, particularly oil, in Kenya has led to the realization of the existing gap in the framework for the management in the utilization of the resource. Oil is a non-renewable resource and unless its exploration is properly managed, the benefits to the community and the country as a whole may not be felt or realized.
9. It has also been noted that Kenya does not have in place, a proper framework, in particular, a legislative framework for the management of such resources and for ensuring that there is local content in the exploration and supply of the resource. The extraction of natural resources has often brought with it disruptive effects particularly with regard to the communities around the area in which the resource is explored. Indeed the areas in which these resources are found often tend to be underdeveloped and the communities in these areas exposed to a number of disadvantages including the inability to negotiate for benefits that should accrue to them and also exposed them to systemic exclusion from the benefits that could be extracted from the various extractive industry value chains. These can be caused by a number of factors including lack of education, land acquisition, a weak legal framework, lack of participation as well as a lack of a clear system for local content.
10. In order for the local communities, particularly in areas where the resources are extracted, to benefit from the extraction of resources, there needs to be in place a strong policy and legal framework on local content in the extractive industry activities and value chains. In this way, benefits that leave a permanent mark on the communities that are affected and ensure that there is progressive development and economic benefit to the said communities. This is done by way of developing local economies by procuring goods and services that are produced locally, thereby also stimulating local industrial development, capacity building and by increasing the local capability to meet international standards in the supply of goods and services. Hence, local content is usually actualized by –
 - a. income received by locals;
 - b. revenues received by landowners and owners of resources; and
 - c. income streams to local shareholders and creditors.
11. With regard to the extractive industry, local content is expected to occur at the exploration and appraisal stage, the development stage and at the production stage. Whereas the exploration and development stage tend to be complex and requiring specialized services, local content can be realized through progressive interventions overtime. However, the production phase often tends to be larger in scale and on average, less specialized than the exploration and development stage hence, providing a better opportunity for the local firms to take part in the

process including the supply of goods and services that are required during this phase.

12. It has been found that in order to ensure that the communities benefit through local content, this process has to be approached in a structured and incremental manner and there has to be a conscious effort on the part of the stakeholders involved in putting in place the necessary framework to ensure that this process is realized. It has also to take into account the existing economic environment and merge the divergent interests and priorities existing between the relevant players in the extractive industry.
13. In addition, local content cuts across various sectors including education, training, transfer of technology, employment, procurement and contracts. These are often regulated by separate policies and regulatory frameworks which are often de-linked from the specific orientation of a local content development strategy. Having in place a local content law would ensure that attention is directed to one singular objective of developing local content.

Overview of the Bill

14. The Bill seeks to apply to all commercial activities related to the exploration, development and exploitation of natural resources in the extractive industry in Kenya. These resources have been defined to mean oil, gas and mining sectors in Kenya.
15. The Bill seeks to ensure the creation of employment opportunities, training and capacity building and technology transfer with regard to Kenyan businesses and also provide a framework for the enhancement of local ownership in extractive companies and the maximization of value addition through local content.
16. The Bill also sets out the principles which are to guide all person involved in the implementation of the Act particularly those set out under Article 62 and 69 of the Constitution on the ownership of, and the sharing of benefits accruing from natural resources respectively.
17. Bill sets out the strategies that are to be employed in order to ensure that local content is achieved. In particular, it imposes an obligation on all operators to carry out education and training of locals in the various stages of the extractive industry with the aim of increasing the number of local persons who are employed by the operator and progressively minimize the employment of foreign staff. In particular, the Bill proposes to set a threshold for the minimum threshold for the Kenyan equity in an extractive industry company, the number of nationals that are to be hired in an extractive industry company and, for this purpose, proposes to impose an obligation on the National Government to carry out corresponding reform measures to ensure that this objective is realized. This Part also sets out the framework for the realization of technology transfer, skills development and capacity building in order to enhance the capacity of the locals to participate in the extractive industry.
18. The Bill also sets out the governance framework in the extractive industry. It provides of the establishment of a permanent local content development committee whose role is to oversee the implementation of the Act through the development of policy, improving local capacity and ensuring the implementation of the Act.
19. Operators are required to file with the Committee a statement of local content setting out information regarding the goods and services procured from local suppliers and the costs incurred by the companies in this regard. The Committee is required, for this purpose, to establish a methodology for determining the local

- content and to accredit companies and agents who are to certify the percentage of local content achieved by a company in the extractive industry.
20. The Bill also imposes an obligation on extractive companies to commit at least 1% of the gross revenue of the company to research and development. It also imposes an obligation on the Cabinet Secretary, on the advice of the Committee, to put in place tax incentives, including exemptions which shall be aimed at enhancing local content.
21. This Part proposes the establishment of a local content training and development fund consisting of non-tax deductible training levies amounting to 0.5% of the net revenues of the extractive company remitted annually by the said company. This Part also imposes an obligation on the Committee to monitor the compliance of the Act by various players and for this purpose, the Committee is required to submit to the Senate, annually a monitoring and performance assessment report.
22. The Bill proposes to impose an obligation on the Committee to formulate guidelines on stakeholder participation. It also imposes a penalty of a maximum of five hundred thousand shillings or imprisonment for a term of three months or both for the breach of the Act.

Conclusion

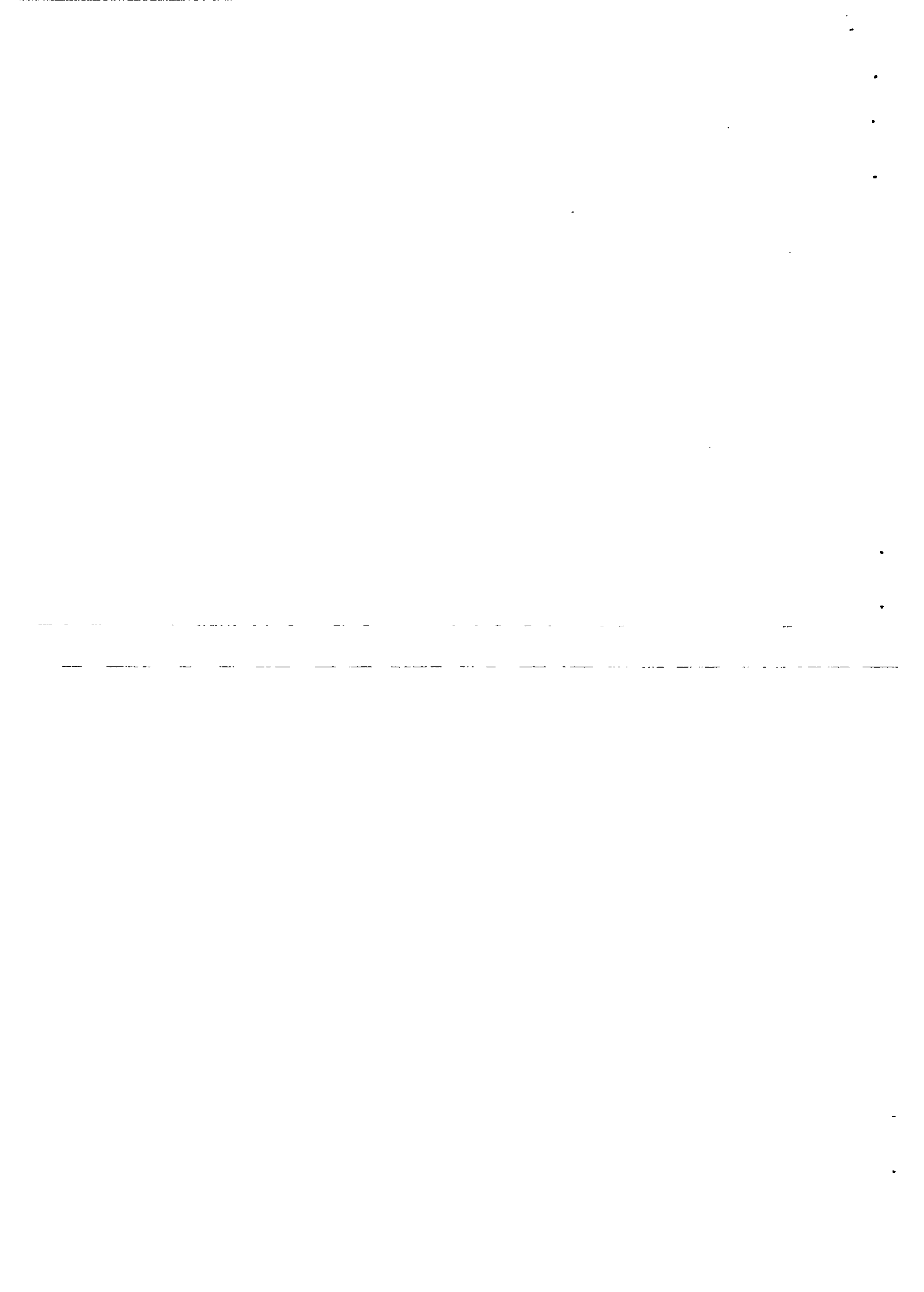
23. The Bill is expected to ensure the achievement of local content and that permanent benefits accrue to local communities found in areas around which resources are found and explored. The Bill seeks to address the existing gap by providing the legal framework that would ensure that the objective of achieving local content is realized.

MIN. NO. 076/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past One O'clock.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018



MINUTES OF THE 18TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE CPA ROOM, MAIN PARLIAMENT BUILDINGS ON THURSDAY 27TH FEBRUARY, 2018 AT 9.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Joseph Wathigo Manje, M.P.
5. The Hon. Abdikhaim Osman Mohamed, M.P
6. The Hon. Elisha Odhiambo, MP
7. The Hon. Elsie Muhanda, MP
8. The Hon. Gitau Faith Wairimu, M.P.
9. The Hon. Ken Chonga, MP
10. The Hon. Mohammed Ali Lokiro, MP
11. The Hon. Tindi Nicholas Mwale, MP
12. The Hon. Lemanken Aramat, M.P.
13. The Hon. Amina Gedow Hassan, M.P
14. The Hon. Julius Musili Mawathe, MP
15. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Ekomwa Lomenen James, M.P.
2. The Hon. Oscar Sudi, Kipchumba, M.P.
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

- | | | |
|-----------------------|---|-------------------------|
| 1. Mr. Benjamin Magut | - | Clerk Assistant I |
| 2. Mr. Douglas Katho | - | Clerk Assistant III |
| 3. Ms. Jemimah Waigwa | - | Legal Counsel II |
| 4. Ms. Brigita Mate | - | Legal Counsel II |
| 5. Mr. Eugene Apaa | - | Research Officer III |
| 6. Mr. Moge Yussuf | - | Fiscal Analyst III |
| 7. Mr. John Nganga | - | Audio Recording Officer |

MIN. NO. 071/2018:

PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 072/2018:

INTRODUCTION TO PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2017

The Committee was taken through an introduction to the Petroleum (Exploration, development and Production) Bill, 2017 by the legal counsel as follows:-

1. The Petroleum (Exploration, Development and Production) Bill, 2017 is a constitutional Bill that was required to be passed in the 11th Parliament (the Bill had a five Years constitutional timeline as provided for in the Fifth Schedule to the Constitution) to implement the provisions of the Constitution relating to use of natural resources.
2. The Bill was first introduced in this House on 19th August, 2015 when it was read a First Time.
3. The Bill was then considered by the 11th Parliament and passed on 3rd May, 2016 by the National Assembly and subsequently forwarded to the Senate for concurrence.
4. The Senate proposed amendments to the Bill and it was thereafter subjected to a mediation process upon which it was adopted and passed by the National Assembly on 11th August, 2016
5. The Bill was then forwarded to the President for assent who referred it back to the National Assembly with reservations on a few clauses in the Bill in accordance with provisions of Article 115 of the Constitution.
6. The National Assembly considered the President Reservations and passed the Bill incorporating the President's reservations on 23rd November, 2016 and it was thereafter forwarded to the Senate for concurrence.
7. The Bill however lapsed in the Senate following the end of the term of the 11th Parliament.
8. The Bill is therefore being reintroduced in this House to ensure the implementation of the Constitution as required in the Fifth Schedule to the Constitution.
9. The Bill has a total of one hundred and twenty clauses and is divided into eleven parts.
10. The Bill seeks to provide a framework for the contracting, exploration and development of petroleum together with production of petroleum discovered within licensed petroleum exploration blocks. The Bill also provides a framework for the safe cessation of upstream petroleum operations.
11. The Bill proposes to repeal the Petroleum (Exploration and Production) Act Chapter 308 of the Laws of Kenya.
12. Part I of the Bill deals with preliminary issues such as definition of terms as used in the Bill, scope of the Bill and the supremacy of the Bill on matters relating to upstream petroleum operations by providing that the Bill once passed into law shall apply to all upstream operations being carried out in Kenya
13. Part II of the Bill deals with the National Upstream Petroleum Policy and Plan. This part provides that the Cabinet Secretary shall develop, publish and review upstream strategic plan. This part also places obligations on the National Government to create a conducive environment for upstream petroleum investments while ensuring that the investments are carried out for the benefit the people of Kenya.
14. Part III of the Bill deals with petroleum institutions. This part details the powers and functions of the Cabinet Secretary responsible for matters relating to petroleum, the National Upstream Petroleum Advisory Committee which

- functions is generally to advise the Cabinet Secretary on upstream petroleum operations and the Upstream Petroleum Regulatory Authority which function shall be to regulate, monitor and supervise upstream petroleum operations in Kenya.
15. Part IV of the Bill deals with upstream petroleum rights and management of petroleum resources. This part vests all petroleum existing in its natural condition on the National Government in trust for the people of Kenya. It further provides that where the national government enters into a petroleum agreement, it shall do so fairly, equitably, transparently, competitively and cost effectively.
 16. Part V of the Bill deals with information and reporting. The part provides for the reporting requirements of the contractor and information that may be required by the Cabinet Secretary. The part also provides for offences relating to refusal to provide information and furnishing of false information to the Cabinet Secretary or the Authority.
 17. Part VI of the Bill deals with local content and training. Local content has been defined to mean the added value brought to the Kenyan economy from petroleum related activities through systematic development of national capacity and capabilities and investment in developing and procuring locally available work force, services and supplies, for the sharing of accruing benefits. This part provides that a contractor and a sub-contractor of the contractor conducting petroleum operations shall among other things give priority to services provided and goods manufactured and ensure that priority is also given for the employment or engagement of qualified and skilled Kenyans at all levels of the value chain. The part also authorises the Upstream Petroleum Regulatory Authority to monitor and enforce local content requirements in upstream petroleum operations. The part further provides for the training of Kenyans and the formulation of local content regulations in upstream petroleum operations.
 18. Part VII of the Bill deals with payments and revenues. The part obligates all contractors to pay all the relevant fees and levies as may be prescribed in the petroleum agreement and any other relevant legislation. The part also provides that all payments due to the National Government under the Bill shall be paid in an internationally acceptable and freely convertible currency. Further, it provides that profit derived from upstream operations shall be shared between the contractor and the National Government in accordance with the petroleum agreement. The part further provides for sharing of petroleum revenues and the establishment of a Sovereign Wealth Fund to provide endowment to support development for the benefit of future generations and to enhance the development of Kenyan infrastructure among other purposes.
 19. Part VIII of the Bill deals with environment, health and safety in upstream petroleum operations. The part obligates all contractors to comply with all environment, health, safety and maritime laws in upstream petroleum operations. This part further prohibits venting and flaring of oil and natural gas except with the authorisation of the Authority and the National Government agency responsible for environment during production testing or for emergency reasons. This part also establishes a disaster preparedness, prevention and management unit

- under the Ministry to coordinate response to accidents, disasters and other emergencies with relevant Ministries and agencies.
20. Part IX of the Bill deals with use of land in upstream petroleum operations including provisions relating to compulsory acquisition of land in accordance with the provisions of the Constitution. In particular, the Bill provides that if the Cabinet Secretary is satisfied that the holder of a license reasonably requires land for purposes of constructing, modifying or operating any upstream petroleum infrastructure or for incidental purposes; and has failed to acquire the land by agreement after making reasonable attempts to do so, the Cabinet Secretary may apply to the agency responsible for the management of the land to acquire it compulsorily under the relevant written laws. The compensation for the compulsory acquisition of land or rights in land shall be determined in accordance with the provisions of the Constitution and the relevant land laws and any other relevant law.
21. Part X of the Bill deals with miscellaneous provisions and in particular contains dispute resolution provisions which provide that all disputes between parties to a petroleum agreement arising from upstream petroleum operations shall be resolved through alternative dispute resolution mechanisms. Further, this Part outlines several offences including economic crimes which relate to where a person wilfully encroaches, illegally acquires or deals in land set aside for upstream petroleum infrastructure projects; vandalises or attempts to vandalise upstream petroleum installations and infrastructure; or steals or attempts to steal any upstream petroleum equipment or appliance or handles any upstream petroleum equipment or appliance. In addition, this Part sets out the powers of the Cabinet Secretary to make subsidiary legislation.
22. Part XI of the Bill deals with repeals, savings and transitional provisions.
23. The Bill also contains two schedules. The First Schedule contains the provisions as to the conduct of business of affairs of the Board of the Upstream Petroleum Regulatory Authority and the Second Schedule is the model petroleum agreement.

MIN. NO. 073/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past 11 O'clock.

SIGNED.....

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(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 17TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE MEMBERS LOUNGE, MAIN PARLIAMENT BUILDINGS ON THURSDAY 23RD FEBRUARY, 2018 AT 2.30PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Joseph Wathigo Manje, M.P.
5. The Hon. Abdikhaim Osman Mohamed, M.P
6. The Hon. Elisha Odhiambo, MP
7. The Hon. Elsie Muhanda, MP
8. The Hon. Gitau Faith Wairimu, M.P.
9. The Hon. Ken Chonga, MP
10. The Hon. Mohammed Ali Lokiro, MP
11. The Hon. Tindi Nicholas Mwale, MP
12. The Hon. Lemanken Aramat, M.P.
13. The Hon. Amina Gedow Hassan, M.P
14. The Hon. Julius Musili Mawathe, MP
15. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Ekomwa Lomenen James, M.P.
2. The Hon. Oscar Sudi, Kipchumba, M.P.
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Douglas Katho - Clerk Assistant III
2. Mr. Eugene Apaa - Research Officer III
3. Mr. Moge Yussuf - Fiscal Analyst III
4. Mr. John Nganga - Audio Recording Officer

MIN. NO. 067/2018:

PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 068/2018:

CONSIDERATION OF THE REPORT ON THE CONSIDERATION BUDGET POLICY STATEMENT 2018/2019 BY THE DEPARTMENTAL COMMITTEE ON ENERGY.

The Committee was considered the report on the consideration budget policy statement 2018/2019 by the Departmental Committee on Energy and thereafter made the following findings:

Committee Observations

The Committee while meeting the Ministry official and its MDAs, made the following observations

- I. Despite the substantive progress made in the implementation of the 5000+ MW projects and last mile connectivity, which has largely boosted the county's installed capacity from 1,768 MW in March 2013 to 2,330 MW in September 2017, the average demand has remained at 1770 MW pointing to existence of idle and unutilized energy.
- II. The Petroleum sub-sector is faced with the serious challenge of fuel adulteration which mainly affect the Diesel fuel. This adulteration is largely motivated by price differential which favours Diesel fuel. .
- III. The Lake Turkana Wind Power Project is currently producing power which cannot be fully evacuated to the country's main grid due to lack of a high voltage line to transmit this power from Turkana to the Suswa substation. As a result the country might be incurring high production cost that should have been avoidable should there have been proper planning for the project. .
- IV. Regarding the 6kg LPG cylinders distribution project, the Committee noted the against of 2016/17 target of purchasing, tagging and distribution of 1,200,000 6kg LPG cylinders, grills and burners to low income households the State Department of Energy managed to distribute 6,000 LPG cylinders only which put to focus the resolve by the government to deal with Diesel fuel adulteration.

Committee Recommendations

Arising for the above mentioned observation the Committee recommends that;

- I. ~~The Budget and Appropriation Committee do approve the ceilings as provided in the 2018/19 Budget Policy Statement. The Ceilings are as follows;~~
 - ~~i. State Department for Energy be allocated Ksh. 74,817.7 million broken down into Ksh.2,161.7 million for recurrent and Kshs. 72,656 million for development~~
 - ii. State Department for Petroleum be allocated Ksh.3,148.6 million of which Kshs.272.6 million for recurrent and Ksh.2,876 million for Development
- II. The Ministry of Energy should implement a multi-sectoral approach in the creation of demand in the Energy sector in order to fully utilize the idle energy produced. These will ensure the consumers are protected and larger public enjoy value for money.
- III. In order to address the challenge of fuel adulteration, the State Departments of Petroleum and State Department of Energy must partner to fast-track implementation of the rural electrification projects and the distribution of 6kg LPG gas cylinders with a view of reducing the demand for Kerosene by low income households for cooking and lighting.
- IV. There is need to relook the entire Lake Turkana Wind Power Project whether the government is getting value for money owing to the fact that Wind power produced in the project has never been evacuated due to lack of a high voltage line to transmit it to the Suswa substation.

- V. That, the allocations to the Power Transmission and distribution Programme be reconciled with its gross allocation in the BPS of Kshs.50,457 million by increasing its capital allocation to Kshs.49, 680 million which in effect will increase gross capital allocation for the State Department to Kshs.72,656 million hence reconciling with gross allocation for the state department of energy of Kshs.74,817.7 million as captured in the BPS 2018/19.

Other Committee Recommendations Subject To Availability of Funds

State Department of Energy

- I. Kshs. 2 billion to Rural Electrification Authority (REA) be provided for Installation of Transformers in constituencies and for electrification of public facilities. under the Power Transmission and Distribution Programme
 - II. Ksh. 8.962 billion be provided to KETRACO for the installation of Loyangalani – Suswa Line under the Power Transmission and Distribution Programme.
 - III. Kshs. 1.3 billion be provided to KETRACO for way-leave compensation under the Power Transmission and Distribution Programme.
 - IV. That, Kshs. 1.362 billion for (GPOBA) programme which is for installation of electricity in slum areas under the Power Transmission and Distribution Programme
 - V. Ksh 5 billion be provided to Kenya Power for the Rural Electrification overrun maintenance costs under the Power Transmission and Distribution Programme
 - VI. Ksh. 1.65 billion be provided to Geothermal Development Corporation for the following
 - a) Ksh. 1.6 billion for Bogoria Silali Geothermal Project.
 - b) Ksh 0.05 billion for Suswa Geothermal Project.
 - VII. Ksh. 0.180 billion be provided for Nuclear Power plant Sitting.
- Alternative Energy Technologies
- VIII. Ksh 0.2 billion be provided for the decentralized electricity systems and household energy for off-grid areas.
 - IX. Ksh 0.01 billion be provided for the resource assessment analysis and feasibility studies for renewable energy technologies.

State Department of Petroleum

Kshs. 4.6 billion be provided to State Department as follows

- i. Ksh 620 Million for Early OIL Pilot Scheme;
- ii. Ksh 41.5 Million for Fuel Marking;
- iii. Ksh 1.285 billion for Lokichar- Lamu Crude Oil Pipeline and
- iv. Ksh 2.655 for LPG Cylinders distribution programme

MIN. NO. 069/2018: ADOPTION OF THE REPORT ON THE CONSIDERATION BUDGET POLICY STATEMENT 2018/2019 BY THE DEPARTMENTAL COMMITTEE ON ENERGY.

The Committee Members unanimously adopted the Report on the consideration budget policy statement 2018/2019 by the Departmental Committee on Energy on a proposal by the Hon. (Dr.) Robert Pukose and Seconded by Hon. Elisha Odhiambo.

MIN. NO. 070/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Four O'clock.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 16TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE MEMBERS LOUNGE, MAIN PARLIAMENT BUILDINGS ON THURSDAY 23RD FEBRUARY, 2018 AT 12.30PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Joseph Wathigo Manje, M.P.
5. The Hon. Abdikhaim Osman Mohamed, M.P.
6. The Hon. Elisha Odhiambo, MP
7. The Hon. Elsie Muhanda, MP
8. The Hon. Gitau Faith Wairimu, M.P.
9. The Hon. Ken Chonga, MP
10. The Hon. Mohammed Ali Lokiro, MP
11. The Hon. Tindi Nicholas Mwale, MP
12. The Hon. Lemanken Aramat, M.P.
13. The Hon. Amina Gedow Hassan, M.P.
14. The Hon. Julius Musili Mawathe, MP
15. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Ekomwa Lomenen James, M.P.
2. The Hon. Oscar Sudi, Kipchumba, M.P.
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Vincent Musyoka Musau, M.P.

IN ATTENDANCE: NATIONAL OIL COMPANY OF KENYA

1. MaryJane Mwangi - CEO, NOCK
2. John Nguni - Head of Finance (NOCK)
3. Francis Njuguna - Ag. GM, NOCK

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Mr. Douglas Katho - Clerk Assistant III
2. Mr. Eugene Apaa - Research Officer III
3. Mr. Moge Yussuf - Fiscal Analyst III
4. Mr. John Nganga - Audio Recording Officer

MIN. NO. 063/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 064/2018: INTRODUCTORY MEETING WITH THE NATIONAL OIL CORPORATION.

The Committee was taken through an introductory meeting with the board and the CEO of the National Oil Corporation of Kenya and the following were the Key highlights:-

The National oil Company was founded in 1981 with a mandate of being the government instrument in oil and gas matters.

Its operations commenced in 1984 and initially focused on exploration activities.

In 1988 the mandate was expanded to include downstream activities of importing 30% of the Country's crude oil requirements.

In the Mid 90's, the effects of liberalization of the petroleum industry has led to lifting of the 30% import quota in 1994; construction of the first 6 petrol stations in 1997; competing in downstream against more established players and lull in the company and financial challenges.

In Mid 2000 the rebirth and overhaul of the board and the management brought a new focus on retail growth and market leadership; growing product portfolio; active oil and gas exploration as well as enhancing organizational and operational excellence.

The Committee was informed that NOCK has been able to turnaround the Company by curbing the challenges that the Company had faced earlier of high financing, Cash hemorrhaging, Operational inefficiencies and slow execution.

The Downstream Projects include the Mwananchi LPG project; Support for and Partnership with Kenya Airways and Retail expansion.

The Upstream business involves undertaking oil and gas exploration activities or through partners currently the operator of Block 14T; Holder of the government back-in rights; Management of the national Hydrocarbon data resource through the National Data Centre; providing various Upstream support Services including seismic processing centre; Developing capacity and local content to provide opportunities for Kenyans in the oil and gas sector and well as providing technical support and input to the Ministry.

The Committee was also informed that to avoid any ambiguity, the petroleum Bill should be amended to include a definition of the National Oil Company as referring to national Oil Corporation of Kenya and its successors and assigns.

The Bill should also be amended to indicate that the National Oil Company will market the Government share of the profit petroleum and funds from the proceeds to be paid into the Central Bank of Kenya and accounts provided to the National Treasury.

The Committee was also informed that the Bill is specific on the maintenance of data within the national Oil Corporation of Kenya until such a time as when Up-stream petroleum Regulatory Authority (UPRA) shall be established.

The Committee was informed that global trends shows that there is a balance of power that has shifted to the National Oil Companies with 18 out of top 25 oil and gas companies in the world currently are National oil Companies; this is because petroleum is too important to be left to the market as well as there is a need to exercising control over the national petroleum resource.

MIN. NO. 065/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Four O'clock.

SIGNED.....

(CHAIRPERSON)

DATE..... 10-04-2018



MINUTES OF THE 15TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE MEMBERS LOUNGE, MAIN PARLIAMENT BUILDINGS ON THURSDAY 23RD FEBRUARY, 2018 AT 9.00AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Joseph Wathigo Manje, M.P.
5. The Hon. Abdikhaim Osman Mohamed, M.P.
6. The Hon. Elisha Odhiambo, MP
7. The Hon. Gitau Faith Wairimu, M.P.
8. The Hon. Ken Chonga, MP
9. The Hon. Mohammed Ali Lokiro, MP
10. The Hon. Tindi Nicholas Mwale, MP
11. The Hon. Lemanken Aramat, M.P.
12. The Hon. Amina Gedow Hassan, M.P
13. The Hon. Elsie Muhanda, MP
14. The Hon. Ekomwa Lomenen James, M.P.
15. The Hon. Julius Musili Mawathe, MP
16. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Clement Muturi Kigano, M.P.
2. The Hon. Vincent Musyoka Musau, M.P.
3. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE:

MINISTRY OF ENERGY

- | | | |
|-----------------------|---|---------------------------------------|
| 1. Mr. Andrew Kamau | - | PS, Petroleum |
| 2. Hudson K, Andambi | - | Deputy Head, Directorate of Petrol |
| 3. Joe Sang | - | MD, KPC |
| 4. MaryJane Mwangi | - | CEO, NOCK |
| 5. John Nguni | - | Head of Finance (NOCK) |
| 6. Francis Njuguna | - | Ag. GM, NOCK |
| 7. Francis Ongaki | - | Head of Administration, Petroleum. |
| 8. Ken Mugambi | - | HOD, Corporate Planning |
| 9. Mary Wanyonyi | - | Head of Accounting Unit (Petroleum) |
| 10. Agnes Muthuo | - | Head – HRM & Development |
| 11. Edward Kinyua | - | Ag. Director, Petroleum, ERC |
| 12. James M. Kilonzo | - | Head of Finance and ICT |
| 13. Jason Nyantino | - | Corporate Communications Manager, KPC |
| 14. Vincent Cheruiyot | - | GM, SC KPC |
| 15. Samuel Odoyo | - | GM(F) KPC |
| 16. Mr. Pavel Omoke | - | Director General, ERC |
| 17. Ms. Melisa Musoma | - | Finance Officer |
| 18. Ruth Kamene Mbiti | - | Finance Officer III |
| 19. Mark Onyango | - | Finance Officer |
| 20. Kevin Macharia | - | Finance Officer (ERC) |
| 21. Justus Omuga | - | Finance Officer |

IN ATTENDANCE:

NATIONAL ASSEMBLY

- | | | |
|-----------------------|---|-------------------------|
| 1. Mr. Douglas Katho | - | Clerk Assistant III |
| 2. Mr. Eugene Apaa | - | Research Officer III |
| 3. Mr. Moge Yussuf | - | Fiscal Analyst III |
| 4. Ms. Jemimah Waigwa | - | Legal Counsel II |
| 5. Ms. Joseph Okongo | - | Media Relations Officer |
| 6. Mr. John Nganga | - | Audio Recording Officer |

MIN. NO. 059/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 060/2018: PRESENTATION BY THE STATE DEPARTMENT OF PETROLEUM ON THE BUDGET POLICY STATEMENT 2018-2019.

The State department of Petroleum made their presentation on the Budget Policy Statement before the Committee and the following were the Key highlights:-

1. PROJECTS EARMARKED FOR IMPLEMENTATION IN THE 2018/19 FINANCIAL YEAR.

The State Department has earmarked for implementation seven (7) projects in the 2018/19 Financial Year;

- a. ~~KEPTAP: The PDO is to strengthen the capacity of key institutions involved in development of the petroleum in order to promote investment in the sector while ensuring that proper safeguards and safety standards are in place. This will be done through:~~
- ✓ Training of 310 Officers in the Implementing Agencies
 - ✓ Purchasing of 4 Specialized equipment and software.
 - ✓ Developing 3 Regulations and guidelines
 - ✓ 4 Task Order Reports
 - ✓ Development of a National Petroleum Master Plan
 - ✓ Development of a Data Integrated Plan
 - ✓ Development of an LPG Distribution Model
 - ✓ Procurement of Gas Testing Equipment
 - ✓ Development of an LPG Communication Plan
- b. Early Oil Pilot Scheme (EOPS): The project's objective is to initiate oil production and early commercialization of the crude oil discoveries made in Northern Kenya. The estimated project cost is Ksh. 3.2 Billion. In the 2018/19 the project requires Ksh. 620 Million, however, it has only been allocated Ksh. 170 Million. The following activities need to be carried out during the financial year 2018/19. The project involves trucking of crude Oil from Lokichar Basin by insulated and heated tank-tainers to KPRL, Mombasa for storage and onward export. Crude oil will be stored in heated tanks at 69° C.

Project Status: This project is ongoing. In the FY 2015/2016 the Government spent 100 million for modification of KPRL tanks to receive the crude oil from Lokichar. However, during FY 2016/17 the project was put on hold until the enactment of Petroleum bill 2015. All the required processes and agreements were finalized.

With a full-funding requirement, all these activities will be implemented.

- c. **Monitoring of Exploration & Appraisal Drilling, South Lokichar Field Development Studies, Research & Feasibility Studies in unlicensed Petroleum Blocks and Regional Promotion of Exploration Potential:** This project entails exploration and Appraisal in Blocks 13T, 10BB, 10BA, 12A, L10A & 12B; Drilling of Exploration and Appraisal wells for Oil and Gas in Blocks 13T, 10BB, to discover more oil and ascertain reserves in these blocks Drilling of Exploration wells in Blocks 10BA, 12A, & L10A to discover oil; acquisition of geological and geophysical data; and marketing of unlicensed blocks to prospective investors.
- d. **Lokichar - Lamu Crude Oil Export Pipeline;** This involves preparatory activities of the pipeline project including:- Feasibility studies, Way leaves acquisition, Stakeholders Engagements. These are in preparation for the development of 821 km, 18-inch diameter pipeline system originating from the oil fields in Lokichar to an export point in Lamu which will include, inter alia, a pipeline, pumping stations, heating system, marine terminal storage and export facility and all associated facilities. The total estimated Project Cost is Ksh. 10 Billion.
- e. **Fuel marking:** This entails quality assurance checks to curb distribution of illegal petroleum products through surveillance.
- f. **LPG distribution infrastructure;** The project entails purchasing of 6kg cylinders as per the Kenyan spec with burners and meko type grill as well as constructing mini LPG storage and refilling plants across the country with an aim of facilitating access of LPG by the low income households.
The Government through this project will facilitate access of LPG by the low income households. The project will minimize the use of kerosene and wood fuels and therefore promote use of clean energy and minimize environmental degradation and health hazards.
- g. **Management of supply of petroleum products;** To ensure security of supply of petroleum products in the country and the region. This is done through industry stakeholders engagement on petroleum supply and demand; scheduling of vessels at Kipevu Oil Terminal (KOT) and Shimanzi Oil Terminal (SOT) as per the demand to minimize on demurrage; sensitization and education of the stakeholders on oil and gas policy and legal matters; spot checks on Oil marketing companies to ensure compliance with the Open Tender System (OTS); efficient utilization of petroleum handling facilities; progress of implementation of Line 5; monitoring of petroleum stocks; analysis of international prices as published by plats; management and updates of oil statistics for purposes of compilation of petroleum consumption data.

MIN. NO. 061/2018: ANY OTHER BUSINESS

The following are key recommendations on areas of consideration by the Committee:

- a. Finalization of the Petroleum Bill,

- b. Review favorably the Budget allocation for the sub-sector.
- c. Consider removal of the incentive to use illuminating kerosene in order to curb fuel adulteration.

MIN.NO. 062/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Eleven O'clock.

SIGNED.....
(CHAIRPERSON)

DATE.....10-04-2018.....

MINUTES OF THE 14TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE MEMBERS LOUNGE, MAIN PARLIAMENT BUILDINGS ON THURSDAY 22ND FEBRUARY, 2018 AT 12.30PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Joseph Wathigo Manje, M.P.
5. The Hon. Lemanken Aramat, M.P.
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Ekomwa Lomenen James, M.P.
8. The Hon. Abdikhaim Osman Mohamed, M.P.
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Gitau Faith Wairimu, M.P.
12. The Hon. Ken Chonga, MP
13. The Hon. Mohammed Ali Lokiro, MP
14. The Hon. Tindi Nicholas Mwale, MP
15. The Hon. Vincent Musyoka Musau, M.P.
16. The Hon. Julius Musili Mawathe, MP
17. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Oscar Sudi, Kipchumba, M.P.
2. The Hon. Clement Muturi Kigano, M.P.

IN ATTENDANCE:

STATE DEPARTMENT OF PETROLEUM

- | | | |
|----------------------|---|--|
| 1. Mr. Pavel Omoke | - | Director General, ERC |
| 2. James M. Kilonzo | - | Head of Finance and ICT |
| 3. Mary Wanyonyi | - | Head of Accounting Unit (Petroleum) |
| 4. Justus Omuga | - | Finance Officer |
| 5. Ms. Melisa Musoma | - | Finance Officer |
| 6. Hudson K, Andambi | - | Deputy Head, Directorate of Petrol |
| 7. Agnes Muthuo | - | Head – HRM & Development |
| 8. Joseph Otieno | - | Petroleum Directorate |
| 9. Ruth Kamene | - | Finance Officer III |
| 10. Edward Kinyua | - | Ag. Director Managing Director, KenGen |
| 11. Kevin Machana | - | Finance Officer (ERC) |
| 12. E.M. Nanzala | - | DCE |
| 13. Mark Onyango | - | Finance Officer |
| 14. John Nguni | - | Head of Finance (NOCK) |
| 15. William Otieno | - | Finance Officer |

IN ATTENDANCE:

NATIONAL ASSEMBLY

- | | | |
|-----------------------|---|----------------------|
| 1. Mr. Douglas Katho | - | Clerk Assistant III |
| 2. Mr. Eugene Apaa | - | Research Officer III |
| 3. Mr. Moge Yussuf | - | Fiscal Analyst III |
| 4. Ms. Jemimah Waigwa | - | Legal Counsel II |

- 5. Ms. Joseph Okongo - Media Relations Officer
- 6. Mr. John Nganga - Audio Recording Officer

MIN. NO. 055/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 056/2018: MEETING WITH STATE DEPARTMENT OF PETROLEUM REGARDING THE BUDGET POLICY STATEMENT, 2018-2019.

The Committee was unable to proceed with the meeting due to the absence of both the PS and the CS.

MIN. NO. 057/2018: ANY OTHER BUSINESS

There were no other business.

MIN.NO. 058/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past one pm.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 13TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE MEMBERS LOUNGE, MAIN PARLIAMENT BUILDINGS ON THURSDAY 22ND FEBRUARY, 2018 AT 10.00AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Joseph Wathigo Manje, M.P.
5. The Hon. Lemanken Aramat, M.P.
6. The Hon. Amina Gedow Hassan, M.P
7. The Hon. Ekomwa Lomenen James, M.P.
8. The Hon. Abdikhaim Osman Mohamed, M.P
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Gitau Faith Wairimu, M.P.
12. The Hon. Ken Chonga, MP
13. The Hon. Mohammed Ali Lokiro, MP
14. The Hon. Tindi Nicholas Mwale, MP
15. The Hon. Vincent Musyoka Musau, M.P.
16. The Hon. Julius Musili Mawathe, MP
17. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Oscar Sudi, Kipchumba, M.P.
2. The Hon. Clement Muturi Kigano, M.P.

IN ATTENDANCE:

- | IN ATTENDANCE: | MINISTRY OF ENERGY |
|------------------------------|---|
| 1. Prof. Colletta Suda | - CAS/Principal Secretary Renewable Energy. |
| 2. Ms. Rebecca Miano | - Managing Director, KenGen |
| 3. Eng. Johnson Nchoe | - MD & CEO |
| 4. Dr. Ken Tarus | - MD a& CEO |
| 5. Mr. William Mbaka | - Senior Chief Finance Officer |
| 6. Mr. Fepa Fernandes Baraza | - MD, Ketracco |
| 7. Eng. Collins Juma | - CEO, Kenya Nuclear Energy Board. |
| 8. Mr. Mathew Musyoka | - Ministry of Energy |
| 9. CPA Peter Mangula | - CEO, REA |
| 10. Eng. Isaac Kiva | - Ministry of Energy |
| 11. Chrispin O. Luoe | - Chief Accountant, Ministry of Energy. |
| 12. Mr. Moses Gathui | - Budget Officer, National Treasury |
| 13. Eddah Gichohi | - Budget Officer, National Treasury |

IN ATTENDANCE:

NATIONAL ASSEMBLY

- | | |
|-----------------------|---------------------------|
| 1. Mr. Douglas Katho | - Clerk Assistant III |
| 2. Mr. Eugene Akaa | - Research Officer III |
| 3. Mr. Moge Yussuf | - Fiscal Analyst III |
| 4. Ms. Jemimah Waigwa | - Legal Counsel II |
| 5. Ms. Joseph Okongo | - Media Relations Officer |
| 6. Mr. John Nganga | - Audio Recording Officer |

MIN. NO. 051/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 052/2018: MEETING WITH THE MINISTRY OF ENERGY REGARDING THE BPS 2018-2019.

The Committee was taken through the BPS 2018-2019 by the Ministry of Energy and the following were the Key highlights:-

The State Department for Energy made its submissions with regards to the budget policy statements for 2018/19 and over the medium term. The state department made its presentations on the ceilings provided and furnished projects information to the committee;

The State Department requested for extra funding in the following areas in order of Priority;

Key Areas That Require Additional Funding (Kshs. 38.6b)

i. Recurrent Vote (Kshs. 40.3m)

The State Department of Energy under personnel emoluments requires Kshs. 459M however it has been allocated Kshs. 318.7 M leaving a gap of Kshs. 40.3M.

ii. Development Vote (Kshs. 38.2b)

- o KPLC GPOBA program debt Kshs 3.362B and Rural Electrification maintenance costs of about Kshs. 5b totalling to Kshs. 8.362b
- o Loiyangalani – Suswa line Kshs. 12.295b
- o Way leave funds for various transmission lines Kshs. 4.870b
- o Electrification of public facilities Kshs. 4b
- o Installation of transformers in constituencies Kshs. 4b
- o Electrification of water facilities Kshs. 3.2b
- o Lamu, Garissa and Suswa sub-station security Kshs. 1.5b

MIN. NO. 053/2018: ANY OTHER BUSINESS

There were other business.

MIN.NO. 054/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Noon.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 12TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE MEMBERS LOUNGE, MAIN PARLIAMENT BUILDINGS ON THURSDAY 20TH FEBRUARY, 2018 AT 9.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Joseph Wathigo Manje, M.P.
5. The Hon. Abdikhaim Osman Mohamed, M.P.
6. The Hon. Clement Muturi Kigano, M.P.
7. The Hon. Elisha Odhiambo, MP
8. The Hon. Elsie Muhanda, MP
9. The Hon. Gitau Faith Wairimu, M.P.
10. The Hon. Ken Chonga, MP
11. The Hon. Mohammed Ali Lokiro, MP
12. The Hon. Tindi Nicholas Mwale, MP
13. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Lemanken Aramat, M.P.
2. The Hon. Amina Gedow Hassan, M.P.
3. The Hon. Ekomwa Lomenen James, M.P.
4. The Hon. Oscar Sudi, Kipchumba, M.P.
5. The Hon. Vincent Musyoka Musau, M.P.
6. The Hon. Julius Musili Mawathe, MP

IN ATTENDANCE: NATIONAL ASSEMBLY

1. Eugene Apaa - Research Officer
2. Ms. Jemimah Waigwa - Media Relations Officer

MIN. NO. 047/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 048/2018: INTRODUCTION TO THE ENERGY BILL, 2017

The Committee was taken through the Energy Bill, 2017 and the following were the Key highlights:-

1. The Energy Bill, 2017 is a constitutional Bill that was required to be passed in the 11th Parliament (the Bill had a five Years constitutional timeline as provided for in the Fifth Schedule to the Constitution) to implement the provisions of the Constitution relating to use of natural resources.
2. The Energy Bill was first introduced in this House on 20th August, 2015 when it was read a First Time.

3. The Bill was then considered by the 11th Parliament and passed on 3rd May, 2016 by the National Assembly and subsequently forwarded to the Senate for concurrence.
4. The Senate proposed amendments to the Bill and it was thereafter subjected to a mediation process upon which it was adopted and passed by the National Assembly on 11th August, 2016.
5. The Bill was then forwarded to the President for assent who referred it back to the National Assembly with reservations on a few clauses in the Bill in accordance with provisions of Article 115 of the Constitution.
6. The National Assembly considered the President's reservations and passed the Bill incorporating the President's reservations on 23rd November, 2016 and it was thereafter forwarded to the Senate for concurrence.
7. The Bill however lapsed in the Senate following the end of the term of the 11th Parliament.
8. The Energy Bill, 2017 is therefore being reintroduced in this House to ensure the implementation of the Constitution as required in the Fifth Schedule to the Constitution.
9. The Bill has a total of two hundred and fifty-three clauses and is divided into eleven parts.
10. The Bill is indeed comprehensive as it seeks to consolidate the laws relating to energy and to align the legal and regulatory framework of the energy sector with the Constitution of Kenya, 2010.
11. The Bill proposes to repeal the Energy Act No. 12 of 2006 and the Geothermal Resources Act No. 12 of 1982 of the Laws of Kenya.
12. Looking at the Bill, Part I of the Bill deals with preliminary issues such as definition of terms as used in the Bill, application of the Act and its supremacy over other laws on matters relating to energy.
13. Part II of the Bills deals with the Energy Policy and Integrated Energy Plan. This is in line with the constitutional mandate given to the National Government of policy making by creating an obligation on the Cabinet Secretary responsible for energy to develop and publish a national energy policy. This Part also places certain obligations on the Government to ensure that services in the energy sector are availed to the people of Kenya. (See clause 7 of the Bill).
14. Part III of the Bills deals with national energy entities. This part establishes the following entities:
 - (a) Energy Regulatory Commission;
 - (b) Energy and Petroleum Tribunal;
 - (c) Nuclear Power, Energy and Petroleum Agency; and
 - (d) Rural Electrification and Renewable Energy Corporation.
15. The Energy Regulatory Commission shall be responsible for among other things the regulation of generation, importation, exportation and transportation of petroleum and petroleum products; the Energy and Petroleum Tribunal shall be responsible for hearing and determining disputes and appeals arising out of the implementation of the Act; the Rural Electrification and Renewable Energy Corporation which shall be responsible for overseeing the Rural Electrification Programme; and the Nuclear Power, Energy and Petroleum Agency shall be the nuclear energy programme implementing organization and shall promote nuclear electricity generation in Kenya.
16. Moving on, Part IV of the Bill deals with renewable energy. This Part also provides for ownership of renewable energy resources which vest in the National Government, preparation of resource maps and resource inventory. (Clause 72 and 73 of the Bill). This is crucial as it will enable investment in the

sector by availing the information to potential investors who would have otherwise spent a lot of time undertaking feasibility studies. This Part also establishes the Renewable Energy Resource Advisory Committee which role is advise the Cabinet Secretary on the criteria for allocation of renewable energy resource areas and licensing of these areas to investors. The part also provides that all un-extracted geothermal resources shall vest in the National Government. (See clause 75 and 76)

17. Part V of the Bill deals with midstream and downstream petroleum. It contains provisions on the requirements of licensing for petroleum business, granting of licenses, conditions for granting permits and offences in downstream and midstream petroleum operations.
18. Part VI of the Bill deals with coal exploration and development. It contains provisions on the requirements of licensing for coal business, granting of licenses, conditions for granting permits and offences related to coal exploration and development.
19. Part VII of the Bill deals with electrical energy. This Part provides for licensing in general and more specifically it has provisions relating to electricity generation, transmission and distribution of energy, rural electrification; retail supply of electrical energy, electrical installation work; metering of electrical energy; tariffs and contracts for electrical energy and network services; regulations to be made and offences and penalties under this part. (See clause 194 of the Bill).
20. Part VIII of the Bill deals with rights of way, way-leaves and use of land for energy resources and installation of energy infrastructure. (See clause 206 of the Bill).
21. Part IX of the Bill deals with energy efficiency and conservation. This Part contains provisions relating to the roles of the National and County Government in energy efficiency and conservation. (See clause 215, 216 and 217 and 221 of the Bill)
22. Part X of the Bill deals with miscellaneous provisions including provisions relating to local content requirements, monitoring and enforcement of local content and the powers of the Cabinet Secretary to make regulations for giving effect the Energy Bill once enacted into law. (See clause 234 of the Bill)
23. Part XI of the Bills deals with Repeals, Savings and Transitional provisions.

The Bill also contains five schedules. The First Schedule contains the provisions as to the conduct of business of affairs of the Board of the Energy Regulatory Commission; the Second Schedule contains provisions as to the term of office, vacancy of office and removal from office of the Members of the Board of the Energy Regulatory Commission among others; the Third Schedule lists the energy sector entities, the fourth schedules contains the transitional provisions and the Fifth Schedule creates clarity as to the distribution of functions between the national and county governments.

MIN. NO. 049/2018: ANY OTHER BUSINESS

The Committee resolved to undertake Public hearings in the counties of Turkana, Lamu and Embu.

MIN.NO. 050/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past one pm.

SIGNED.....

(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE 11TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE NEW WING SMALL DINNING, MAIN PARLIAMENT BUILDINGS ON THURSDAY 15TH FEBRUARY, 2018 AT 10.30AM

MEMBERS PRESENT

1. The Hon. (Dr.) Robert Pukose, M.P. -Vice Chairperson (Chairing)
2. The Hon. Ekomwa Lomenen James, M.P.
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Lemanken Aramat, M.P.
5. The Hon. Amina Gedow Hassan, M.P
6. The Hon. Abdikhaim Osman Mohamed, M.P
7. The Hon. Clement Muturi Kigano, M.P.
8. The Hon. Elsie Muhanda, MP
9. The Hon. Gitau Faith Wairimu, M.P.
10. The Hon. Ken Chonga, MP
11. The Hon. Mohammed Ali Lokiro, MP
12. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. Cecily Mbarire, M.P.
3. The Hon. Oscar Sudi, Kipchumba, M.P.
4. The Hon. Vincent Musyoka Musau, M.P.
5. The Hon. Elisha Odhiambo, MP
6. The Hon. Julius Musili Mawathe, MP
7. The Hon. Tindi Nicholas Mwale, MP

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Douglas Katho - Clerk Assistant III
2. Eugene Apaa - Research Officer
3. Mr. Joe Okongo - Media Relations Officer
4. Mr. Moge Abdulnasir - Fiscal Analyst
5. Ms. Rose Ometere - Audio Recording Officer.

MIN. NO. 043/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN.NO. 044/2018: PRESENTATION OF THE BUDGET POLICY STATEMENT BY THE PARLIAMENTARY BUDGET OFFICE.

The parliamentary Budget Office made a presentation of the 2018/2019 Budget Policy statements and the following were the Key highlights:-

- i. The revenue projections for 2018/19 BPS targets for revenue collections including AIA is projected at Kshs.1,853.9 billion translating to 18.9% of GDP which is an increase from the 2017/18 projections of Kshs. 1,643.1 billion which was 19% of GDP.

- ii. The Expenditure Projections: overall expenditure and net lending are projected at Kshs. 2,492.2 billion (25.5% of GDP) increasing from the estimated Kshs.2,323.1billion (26.8% of GDP) in the FY 2017/18. The projected expenditures for 2018/19 include Kshs.1501.5 billion (15.3) to defray recurrent Expenditures and Kshs. 612.9 billion for development Expenditures. In addition a contingency amount of Kshs. 5 billion and Kshs. 4.7 billion for Equalization Fund is also provided.
- iii. The deficit Financing: the deficit of Kshs.587.7 billion will be financed both externally and domestically. Net external financing is projected at Kshs. 214.7 billion (2.2%) of GDP and Net Domestic Borrowing of Kshs.369.6 billion (3.8% of GDP) and other domestic receipts of Kshs.4.2 billion
- iv. An assessment of the overall spending by the State Department for Energy reveals a continuous increase in expenditure from the period 2013/14 to 2016/17 before it took down ward trajectory from 2017/18 and going forward. With regards to the State Department for Petroleum, the increased budgetary allocation continued to FY 2017/18 which allocations are projected to reduce from 2018/19.
- v. The budget policy statement for 2018/19 caps the expenditure for state Department energy at Kshs.69,818* million which is a reduction from the Kshs. 77,220 million that was provided in 2017/18 budget estimates and far below the resources sought during the sector working groups amounting to Kshs.255,145 million. The allocation of Kshs.69, 818 million comprise of Kshs.2,162 million for recurrent Expenditure and Kshs. 67,656 million for Development Expenditure.
- vi. That the ministry is engaged in several projects designed to establish energy efficiency at the community or house hold level such as the "*last mile connectivity* program" and the "*Gas Yetu – Mwananchi Gas Project*" that seeks to distribute 6 kg liquid gas cylinders to households. However the details of pertaining to regional comparison in terms of intervention is unknown therefore impossible to determine as to the real effects of the projects
- vii. The committee observed that the subsectors of energy and petroleum are often faced with lack of buy-in from project host communities and delays in compensating affected persons. In this regard, there is need to closely work with all stakeholders to ensure Enactment of Public Participation Bill,
- viii. The Committee also observed that substantive progress has been made in the Implementation of Key projects like 5000+ MW projects and last mile connectivity boosting installed capacity 17,681 MW in March 2013 to 2,261 MW in September 2017. Further, energy supply now stand at 2330 MW against a demand level of 1770 MW pointing to existence of idle and unutilized energy. There is need to focus on demand creation to reduce the risk of paying for idle energy since most of these energy is produced by the private sector while at same time sustaining support for ongoing generation, Transmission and Distribution of energy.
- ix. That due to of lack of planning in terms of linking energy generation and distribution, Primarily, the committee is concerned on the on the costs incurred is the Lake Turkana Wind Power Project where the produced power cannot be evacuated due to lack of a high voltage line to transmit it to the Suswa substation. As a result the country is incurring high charges that should have been avoidable should proper planning have taken place

- x. Further, the Committee observed the subsector is also faced with the challenge of fuel adulteration risking the local economy and the regional market. This is largely motivated by price difference between Kerosene and Diesel. Therefore there is need to fast track the LPG project and rural electrification to replace the dependency of low income rural homes on Kerosene for cooking and lighting.
- xi. With all these community based projects, it would be important for the state departments to partner with county governments in order to have higher community impact. As such there is also need to county based energy needs based on current consumption and future needs. This will facilitate the determination of energy deficient counties and create timelines to improve their energy supply and sustain county development plans and manufacturing
- xii. An assessment of compensation to employees for the last five years depicts a picture of unpredictable trend in the state department for energy pointing, perhaps, to the engagement of skilled manpower on contractual basis as and when is required. If this is the case, there is need for enhanced skills development and employment of staff on Permanent for ease of predictability by policy makers and legislative oversight

MIN. NO. 045/2018: COMMITTEE OBSERVATIONS

The Committee made the following observations:-

- i. It is however noted that there is a difference of Kshs.5 billion between Total allocation for the power transmission and distribution Programme and its totals of recurrent and capital expenditures and therefore the BPS 2018/19 captures gross allocation for energy as *Kshs.74,818*. Billion*. There is need for clarification on where the error is.
- ii. On the part of the State Department for Petroleum, the allocations are capped at Kshs. 3,149 million which is a decrease from the Kshs.5,381 million availed in 2017/18 estimates and Kshs.8,088 million sought during the sector working group forums. The allocated amount for 2018/19 comprises of Kshs.273 million for recurrent and Kshs. 2,876 million for development.
- iii. The expenditure allocations for the state department energy have been increasing from Kshs.73 billion in 2013/14 to Kshs. 111 billion in 2016/17 before it dropped to Kshs.77 billion in 2017/18 and sustaining over the medium term. The achievements and gains made through the two programmes of power generation and power transmission & distribution in the period of 2013 to 2017 may explain the upward trajectory in expenditure whereas the constant projection in allocations over the medium term points to sustained support to ongoing programmes and projects.
- iv. That there should be a review of plan capabilities at the state department of energy and investigation as to the costs incurred under the Lake Turkana Wind Power Project where the produced power cannot be evacuated due to lack of a high voltage line to transmit it to the Suswa substation.

- v. Committee recommends training preferably at the county level with a view to enhance their capacity on resource management in order to take advantage of renewable energy and environmental conservation should be fast tracked so that counties can mitigate climate change, develop sustainable energy sources and meet energy manufacturing requirements and take advantage of the governments Big 4 Agenda.

MIN.NO. 046/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past one pm.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018.....

MINUTES OF THE 10TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD AT THE ENGLISH POINT MARINA HOTEL IN MOMBASA ON WEDNESDAY 7TH FEBRUARY, 2018 AT 9.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Lemanken Aramat, M.P.
5. The Hon. Vincent Musyoka Musau, M.P.
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Abdikhaim Osman Mohamed, M.P.
8. The Hon. Clement Muturi Kigano, M.P.
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Gitau Faith Wairimu, M.P.
12. The Hon. Mohammed Ali Lokiro, MP
13. The Hon. Cecily Mbarire, M.P.
14. The Hon. Ekomwa Lomenen James, M.P.
15. The Hon. Julius Musili Mawathe, MP
16. The Hon. Ken Chonga, MP
17. The Hon. Tindi Nicholas Mwale, MP
18. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant III
3. Mr. Silyvester Ocholla - Manager, Health Club
4. Mr. Eugene Apaa - Research Officer
5. Mr. Joe Okongo - Media Relations Officer
6. Ms. Brigita Mati - Legal Counsel
7. Mr. Moge Abdulnasir - Fiscal Analyst
8. Mr. Elijah Ichwara - Audio Recording Officer.

MIN. NO. 039/2018:

PRELIMINARIES AND INTRODUCTIONS

The sitting was called to order by the Chairperson for the session.

MIN. NO. 040/2018:

CONSIDERATION OF THE COMMITTEE WORK PLAN FOR 2018

The Committee considered and adopted the draft work plan as shown in the table below:-

ENERGY COMMITTEE PROPOSED WORK PLAN FY 2017/2018

	TIME FRAME DATE /WEEK	SET TARGETS AND OBJECTIVES	SPECIFIC ACTIVITY	OUTCOMES	VENUE	RESPONSIBILITY
1.	Tuesday 13 th February , 2018.	Budget Approval	Introduction to the Budget Policy Statement BPS	Enhanced Committee knowledge on Budget Policy Statement	Parliament Buildings	Committee Secretariat and Parliamentary Budget Office
2.	Thursday 15 th February ,2018	Budget Approval	Review of the 2017-18 Ministry of Energy Budget with specific reference on Projects & Programs implemented in by Ministry.	Enhanced Committee knowledge on current Budget 2017-18	Parliament Buildings	Parliamentary Budget Office
3.	Tuesday 20 th February ,2018	Budget Policy Statement approval	Deliberation on the 2018-19 Budget Policy Statement		Parliament Buildings	Parliamentary Budget Office
4.	Thursday 22 nd February 2018	Budget Policy Statement approval	Appearance of the Ministry of Energy and Ministry of Petroleum before Committee regarding 2018-19 Budget Policy Statement	Approval of the BPS	Parliament Buildings	Committee Secretariat and Parliamentary Budget Office
5.	22-24 February ,2018	Induction of the Committee by with Ministry of Energy and its SAGA	Hold a consultative retreat	Improved Committee understanding of the sector	Naivasha	Ministry Energy Officials
6.	Tuesday 27 th February ,2018	Enactment of the Energy Bill, 2018	Committee Sitting to deliberate the Energy Bill, 2018	Enactment of the Energy Bill, 2018	Parliament Buildings	Committee Secretariat and Ministry Staff
7.	Thursday	Enactment of	Committee	Enactment of	Parliament	Committee

	TIME FRAME DATE /WEEK	SET TARGETS AND OBJECTIVES	SPECIFIC ACTIVITY	OUTCOMES	VENUE	RESPONSIBILITY
	y 1 st March ,2018	the Energy Bill, 2018	Sitting to deliberate the Energy Bill, 2018	the Energy Bill, 2018	Buildings	Secretariat
8.	1 st - 3 rd March ,2018	Induction of the Committee by the Ministry of Energy and its SAGA	Familiarization visit to Ministry of Energy projects in Coast region on	Inspection of projects in the Sector	Mombasa	Committee Secretariat and Ministry Staff
9.	Tuesday 6 th March 2018	Enactment of the Energy Bill, 2018	Public hearings /Committee Sitting to deliberate the Energy Bill, 2018 (The Ministry)	Public Hearings Report	Parliament Buildings	Committee Secretariat and Ministry Staff
10	Thursday 8 th March, 2018	Enactment of the Energy Bill, 2018	Public hearings /Committee Sitting to deliberate the Energy Bill, 2018 (Other Stakeholders)	Public Hearings Report	Parliament Buildings	Committee Secretariat
11.	8 th - 10 th March ,2018	Induction of the Committee by with Ministry of Petroleum and its SAGA	Hold a consultative retreat	Improved Committee understanding of the sector.	Mombasa	Committee Secretariat and Ministry
12	Tuesday 13 th March ,2018	Enactment of The Petroleum (Exploration and Production) Act 2018	Public hearings /Committee Sitting to deliberate the (Exploration and Production) Act 2018 (The Ministry)	Public Hearings Report	Parliament Buildings	Committee Secretariat
13	Thursday 15 th March ,2018	Enactment of The Petroleum (Exploration and Production) Act 2018	Public hearings /Committee Sitting to deliberate the (Exploration and Production) Act	Public Hearings Report	Parliament Buildings	Committee Secretariat

	TIME FRAME DATE /WEEK	SET TARGETS AND OBJECTIVES	SPECIFIC ACTIVITY	OUTCOMES	VENUE	RESPONSIBILITY
			, 2018 (Other Stakeholders)			
14	Tuesday 20 th March ,2018	Enactment of The Petroleum (Exploration and Production) Act 2018	Public hearings /Committee Sitting to deliberate the (Exploration and Production) Act , 2018 (Other Stakeholders)	Public Hearings Report	TBC	Committee Secretariat
15	Thursday 22 nd March ,2018	Enactment of The Petroleum (Exploration and Production) Act 2018	Public hearings /Committee Sitting to deliberate the (Exploration and Production) Act , 2018 (Other Stakeholders)	Public Hearings Report	TBC	Committee Secretariat
16	22 nd - 24 th March	Enactment of The Petroleum (Exploration and Production) Act-2018	Stakeholder retreat on The Petroleum (Exploration and Production) Act 2018	Public Hearings Report	TBC	Committee Secretariat

**N. B THIS WORK PLAN MAY CHANGE FROM TIME TO TIME.*

MIN. NO. 041/2018: COMMITTEE RESOLUTIONS DURING THE INDUCTION WORKSHOP.

- a. In the plenary committee resolved that it should be briefed on the draft budget policy statement before the final BPS was submitted to parliament. In this regard the committee was to be briefed on the draft BPS on Tuesday, 13th Feb. 2018.
- b. The Committee was informed that there will be an engagement with the ministry's SAGAs in preferably Naivasha in order to have a deeper level of engagement between the committee and the Ministry.
- c. The Committee resolved to undertake capacity Building for international study tours and conferences in United States of America for Geothermal, France for Nuclear, Canada for Hydro, and the Kingdom of Norway for the management of Sovereign Wealth Fund.

MIN. NO. 042/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past One O'clock.

SIGNED.....

(CHAIRPERSON)

DATE.....10-04-2018



MINUTES OF THE 9TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD AT THE ENGLISH POINT MARINA HOTEL IN MOMBASA ON TUESDAY 6TH FEBRUARY, 2018 AT 2.30PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Lemanken Aramat, M.P.
5. The Hon. Vincent Musyoka Musau, M.P.
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Abdikhaim Osman Mohamed, M.P.
8. The Hon. Clement Muturi Kigano, M.P.
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Gitau Faith Wairimu, M.P.
12. The Hon. Mohammed Ali Lokiro, MP
13. The Hon. Cecily Mbarire, M.P.
14. The Hon. Ekomwa Lomenen James, M.P.
15. The Hon. Julius Musili Mawathe, MP
16. The Hon. Ken Chonga, MP
17. The Hon. Tindi Nicholas Mwale, MP
18. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE:

MINISTRY OF ENERGY

1. Eng. Julius Mwathani - Secretary, Energy
2. Eng. Isaac Kiva - Secretary, Re-newable Energy
3. Dr. Kasomi F.M. - PA to Principal Secretary
4. Mr. Martin M. Heya - Secretary, Petroleum
5. Mr. T.G. Gakuu - Chief Engineer, SDE
6. Mr. Kemoli Sagala - Cabinet Secretary's Office
7. Mr. Charles Wanyoike - State Department of Energy
8. Ms. Electine M. Nanzala - State Department of Petroleum
9. Mr. John M. Omenge - Secretary Geo-Exploration
10. Mr. Joshua Ngechu - Geochemist
11. Mr. Stephen Lusweti - Directorate of HRM&D
12. Ms. Pamel Mutua - Cabinet Secretary's Office
13. Ms. Abigail Mwangi - State Department of Petroleum
14. Mr. Daniel Kiptoo - Legal Advisor
15. Mr. Geoffrey Rono -
16. Dr. Peter Omenda - Consultant, Int'l Geothermal Association.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Martin Masinde - Senior Deputy Director, Parliamentary Budget Office.
2. Mr. Nicholas Emején - Deputy Director Committee Services(NA)

- | | | |
|---------------------------|---|------------------------------|
| 3. Mr. Oscar Namulanda | - | Principal Clerk Assistant II |
| 4. Mr. Benjamin Magut | - | Clerk Assistant I |
| 5. Mr. Douglas Katho | - | Clerk Assistant III |
| 6. Mr. Silyvester Ocholla | - | Manager, Health Club |
| 7. Mr. Eugene Akaa | - | Research Officer |
| 8. Mr. Joe Okongo | - | Media Relations Officer |
| 9. Ms. Brigita Mati | - | Legal Counsel |
| 10. Mr. Moge Abdulnasir | - | Fiscal Analyst |
| 11. Mr. Elijah Ichwara | - | Audio Recording Officer. |

MIN. NO. 035/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting was called to order by the Chairperson for the session.

MIN. NO. 036/2018: PRESENTATION BY THE PRINCIPAL FOR THE STATE DEPARTMENT OF PETROLEUM.

The Committee was informed of the history of ministry of Energy which was instigated under the Executive Order No. 1 on the Organization of the Government of the Republic of Kenya; MOEP was split into two State Departments; Energy and Petroleum, with each drawing its mandates from the above Executive Order. The Ministry was headed by Cabinet Secretary for Energy and Petroleum, Mr. Charles Keter, MGH and Mr. Andrew Kamau as Principal Secretary State Department Petroleum. On 20th May 2013, its name (MOE) was changed to the Ministry of Energy and Petroleum (MOEP) through Executive Order No. 2/2013 that outlined the Organisation of the Government of Kenya.

He also explained to Members on the divisions to several divisions in the State Department of Petroleum namely Upstream, Mid-stream and Downstream as well as key support functions (HR & Admin, Finance & Accounting, IT).

- (a) Upstream (Exploration and Production)-The sector entails searching for potential crude oil and natural gas fields onshore and offshore, geological and geophysical data acquisition, exploration and drilling followed by development and production of the commercial fields.
- (b) Midstream-involves the transportation, storage, and wholesale marketing of crude oil or gas. Pipelines and other transport systems (oil taker (sea), road or rail (trucks/wagons respectively) can be used to move crude oil / gas from production sites to refineries / chemical plants, power plants in gas of gas
- (c) Downstream- commonly refers to the refining of petroleum crude oil and processing / purifying of raw natural gas. Marketing and distribution of products derived from crude oil and natural gas to end consumer is part of downstream activities. Transportation of these products can be via pipelines, road or rail and sea going vessels.

He mentioned to the members on the key projects that are under implementation.

MIN. NO. 037/2018: PRESENTATION ON OVERSIGHT OF ENERGY SECTOR PROJECTS.

The Committee was informed that the global Oil demand will rise in the next five years, passing the symbolic 100 mb/d threshold in 2019 and reaching about 104 mb/d

by 2022. The developing countries account for all of the growth and Asia dominates, with about seven out of every 10 extra barrels consumed globally.

The Committee learnt that the global Coal supplies a third of all energy used worldwide and makes up 40% of electricity generation, as well as playing a crucial role in industries such as iron and steel. This is despite legitimate concerns about air pollution and greenhouse gas emissions, coal use will continue to be significant in the future and therefore greater efforts are needed by government and industry to embrace less polluting and more efficient technologies to ensure that coal becomes a much cleaner source of energy in the decades to come.

The Consultant informed the Committee that Natural gas supplies 22% of the energy used worldwide, and makes up nearly a quarter of electricity generation, as well as playing a crucial role as a feedstock for industry. • Natural gas is a versatile fuel and its growth is linked in part to its environmental benefits relative to other fossil fuels, particularly for air quality as well as greenhouse gas emissions. • The natural gas market is becoming more globalized, driven by the availability of shale gas and the rising supplies of liquefied natural gas. The Natural gas will account for a quarter of global energy demand by 2040.

The Committee noted that with advanced technology for recovery of shale oil and gas, Kenya should consider developing this new energy that has high potential abundance in Kenya; its rapid growth could be associated with conducive regulatory environment and technology.

The Committee was informed of the change in world energy demand by fuel and that the global future energy demand will be driven by gas and renewables (solar, wind, geothermal)

Global Electricity projection between 2016-2040 is the rising force among worldwide end-uses of energy, making up 40% of the rise in final consumption to 2040.

Electricity Capacity Additions: The renewables capture two-thirds of global investment in power plants to 2040 as they become, for many countries, the least-cost source of new generation.

The Committee was informed that the present status reflects that Kenya has limited resources of oil, gas, coal but significant reserves of geothermal, solar, and wind.

In a Nutshell Oil prices is expected to surpass \$104 per barrel by 2022 resulting in increases in prices for oil products and derivatives. The demand for energy in Africa is expected to grow significantly driven by industrialization but growth will not be commensurate with population. The Electricity generation from coal, gas, and nuclear will plateau in growth in the coming years; and Most global growth in electricity will come from renewable sources which is solar, wind, hydro, geothermal.

It was noted by the Committee that Kenya's Petroleum potential occurs in four sedimentary basins, namely: Lamu, Anza, Mandera, and Tertiary Rift basins.

Coal and Coal Bed Methane (CBM) Studies in the Karoo System in Kwale, Kilifi, Taita-Taveta and Kitui Counties confirm possible occurrence of commercial CBM deposits.

Huge potential exists for shale gas associated with the sedimentary basins in Kenya as evidenced in unconventional gas discovery in Kajiado County necessitates reevaluation of the approach to exploring for shale gas deposits that may be more abundant than has been thought.

Forecasts places required generation capacity by 2030 at over 19,000 MWe to achieve Vision 2030 developments. Many areas are not adequately covered by the Existing or planned Kenya National grid connection.

The Committee was informed that a decentralized system is good for sites away from national grid supply and that the renewable systems are best suited for these.

For instance there exists a Solar Potential in Kenya with a total potential for photovoltaic installations is estimated at 23,046 TWh/year. The government is aiming to install an additional 500 MW grid connected solar systems by 2030.

Wind also has a potential output is 22,476 TWh/year with northern Kenya having the highest potential (Marsabit and Turkana Counties); only 315 MWe is currently installed in Kenya

For the next five years, solar PV represents the largest global annual capacity additions for renewables with a high growth rate due to competitive tariff.

Solar can be utilized in a mini-grid connection with batteries and inverters in a container control room as well as micro-grid installations at a Mall or a Social Institution.

The Committee noted that the Implications of the Mini Grid systems would help bridge electrical supply gap in remote as well as help lower consumer power bills and to supplement country's power requirements.

The top ten Geothermal Countries in terms of Installed capacity (MW) as of Jan. 2018 are the United States, Philippines, Indonesia, Turkey, New Zealand, Mexico, Italy, Iceland, Kenya and Japan with a total of 14,060 MWe.

Indonesia, United States, Philippines, Turkey, Kenya, Mexico, New Zealand, Iceland, Italy and Ethiopia will be the next Top ten in that order assuming that the projects are developed as planned and for Kenya, these are: - Olkaria - Menengai - Baringo-Silali.

In Africa the Geothermal areas are associated with various tectonic regimes whereas the Geothermal in Kenya is found in all high enthalpy fields which are located within the axis of the Kenya rift valley with Operating power plants located at Olkaria and Eburru. Geothermal resources has also been confirmed at Menengai geothermal field.

Kenya's Olkaria field KenGen and IPP generates 676 MWe; Olkaria I generated 45 MWe commissioned in 1981- 1983; the Olkaria I AU with 140 MWe commissioned in 2014; Olkaria I AU unit 6 – 70 MWe is under development with a 80 MWe of wellhead power generation; Olkaria II – 105 Mwe; Olkaria IV – 150 MWe; Olkaria I AU – 150 MWe and Eburru 2.5Mwe.

Kenya's Menengai 1 is under development; as well as 3 x 35 MWe units under development by three IPPs, namely, the three Orpower 22 Limited, Sosian Menengai Geothermal Power Limited (SMGPL) and Quantam East Africa Power Limited.

The Committee was informed of direct utilization of geothermal in Cut flower greenhouse heating as well as soil fumigation of 100 hectares at Oserian farm and spa at Olkaria; The Eburru crop drying project; Pilot Laundromat, milk processor, aquaculture and greenhouse at Menengai geothermal field; the Geothermal spa at Olkaria visited by 14,000 per year

The presenter recommended Intergrated approach to geothermal utilization by Co-development of geothermal resources with wind and solar could be considered in Kenya as high solar, wind, geothermal, and oil potential exist in the same areas in northern Kenya.

Provide Industrial heat for processing milk, abattoir, drying and also honey processing, also heating and cooling.

For tourism, most of the potential spas in Kenya are associated with potential geothermal power project sites and therefore could be co-developed to Hot bath spa, heated swimming pools in hotels, and golf courses.

Top Hot springs SPA Market: Globally Asia is the fastest growing market while Africa is lagging far behind (2013) Hot spring establishment.

Blue Lagoon Spa Iceland: Brine from Svartsengi power plant (74.4MWe and 150 MWt) is used at the facility for healing from psoriasis and other skin ailments. The Spa was opened to public in 1987 and Commercialized in 1994. The Blue Lagoon receives over 1,000,000 visitors per year while it's profit before EBITDA was US\$31 million in 2016.

Olkaria Geothermal Spa diversify geothermal resource utilization. It uses the waste brine from Olkaria II power plant that was commissioned in 2013 and has 4,000 visitors per year (2016).

Hotspring, Zambia Chinyunyu hotspring in Zambia is used for hot bath, treatment of skin disorders and for mental patients. Spring water at 64.5°C is poured onto the heads of the mental patients and the spring water is also carried in containers for the sick to drink while at home. The patients come as far as Lusaka (80 km).

Waste Heat Recovery for power generation can be implemented for industries such as Steel industry, Cement, Glass, Diesel engines and combined cycle.

Waste-To-Energy about 50 MWe waste-to-energy plant in Addis Ababa in Ethiopia of which 80% of waste (1400 tons/day) is incinerated and Provides 30% of electricity demand in Addis Ababa. This is the 1st plant of its kind in Africa though not all support this method of waste management due to green gas emissions

Waste to Compressed Biogas: - India is leading in Bottling of biogas would need purification by removal of unwanted gases (H₂S, CO₂, etc. and enrichment of methane as well as Compression into LPG cylinders.

Co-Generation Using Biomass: Example are sugar factories that use bagasse to produce electricity for own use and excess supplied to the national grid even though the challenge is green gas emissions associated with these plants.

African Geothermal Centre Of Excellence • Skills gap analysis revealed that countries of Eastern Africa have a large shortfall of trained manpower to help achieve their vision of developing geothermal resources. Kenya was nominated to host the Centre of excellence since named "African Geothermal Centre of Excellence" AGCE. The AGCE is owned by all countries of Africa and established as an AU Centre of excellence AGCE is supported by UN Environment, Iceland MFA, NDF, BGR, KenGen, GDC, and Ministry of Energy as the host.

Strategic Implications for the Departmental Committee on Energy in the National Assembly.

The Committee was informed that it is worth noting that there is no agency is established to promote development of hot springs and spas for tourism and medicinal purposes. The Energy committee could champion the development of appropriate legislation to promote holistic development of hot springs and spas since most of them would be associated with power projects and thus Kenya could benefit immensely if the industry was established and properly regulated as part of tourist market.

The Committee to use their oversight, legislative, and representation functions to promote sustainable energy development and; implement effective regulations, financial incentives, and institutional reforms that promote energy efficiency, alternative fuel sources, and low-carbon growth.

Efforts for Energy Efficiencies include a further innovation in energy technology for increased efficiency in energy production; Review/establish regulatory frameworks and standards; Promote effective urban planning for energy efficiency and reduced energy use; and Facilitate changes in lifestyles and behavior patterns for energy efficiency.

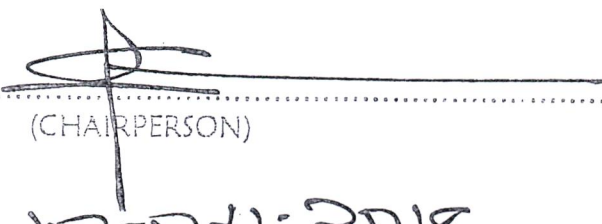
Efforts to move to low carbon technologies include moving towards increased use of renewable energy sources e.g. wind, water, solar, thermo-solar, tidal, geothermal, and waste vegetation for biofuels; Lower-emission fossil fuel technologies such as clean coal or nuclear power; Engage in the climate change agenda and Human Resource Capacity building.

In a Nutshell the Committee on Energy has a role to help trigger development of new industries and energy resources through appropriate policies to support exploration and development of natural gas resources; Supportive policy and incentives for Spa and hot spring industry; Research on new RE technologies; Support development of mini grids based on RE technologies; Support geothermal industry in Kenya to build expertise for international consultancies.

MIN. NO. 038/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Five O'clock.

SIGNED.....

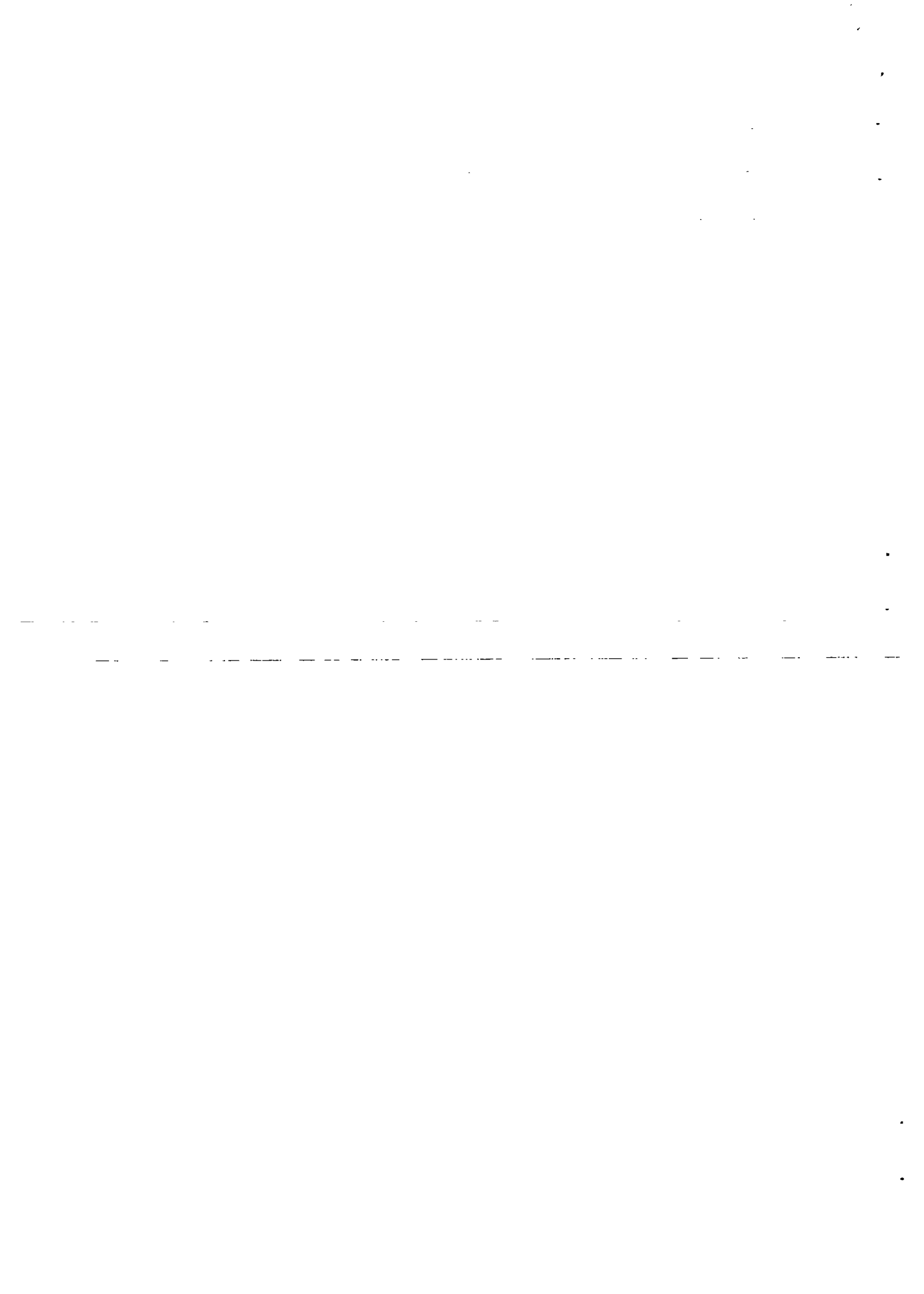


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(CHAIRPERSON)

DATE.....

10-04-2018



MINUTES OF THE 8TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD AT THE ENGLISH POINT MARINA HOTEL IN MOMBASA ON TUESDAY 6TH FEBRUARY, 2018 AT 9.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Lemanken Aramat, M.P.
5. The Hon. Vincent Musyoka Musau, M.P.
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Abdikhaim Osman Mohamed, M.P.
8. The Hon. Clement Muturi Kigano, M.P.
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Gitau Faith Wairimu, M.P.
12. The Hon. Mohammed Ali Lokiro, MP
13. The Hon. Cecily Mbarire, M.P.
14. The Hon. Ekomwa Lomenen James, M.P.
15. The Hon. Julius Musili Mawathe, MP
16. The Hon. Ken Chonga, MP
17. The Hon. Tindi Nicholas Mwale, MP
18. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE:

MINISTRY OF ENERGY

1. Eng. Julius Mwachani - Secretary, Energy
2. Eng. Isaac Kiva - Secretary, Re-newable Energy
3. Dr. Kasomi F.M. - PA to Principal Secretary
4. Mr. Martin M. Heya - Secretary, Petroleum
5. Mr. T.G. Gakuu - Chief Engineer, SDE
6. Mr. Kemoli Sagala - Cabinet Secretary's Office
7. Mr. Charles Wanyoike - State Department of Energy
8. Ms. Electine M. Nanzala - State Department of Petroleum
9. Mr. John M. Omenge - Secretary Geo-Exploration
10. Mr. Joshua Ngechu - Geochemist
11. Mr. Stephen Lusweti - Directorate of HRM&D
12. Ms. Pamel Mutua - Cabinet Secretary's Office
13. Ms. Abigail Mwangi - State Department of Petroleum
14. Mr. Daniel Kiptoo - Legal Advisor
15. Mr. Geoffrey Rono -
16. Dr. Peter Omenda - Consultant, Int'l Geothermal Association.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Martin Masinde - Senior Deputy Director, Parliamentary Budget Office.
2. Mr. Nicholas Emején - Deputy Director Committee Services(NA)

3. Mr. Oscar Namulanda - Principal Clerk Assistant II
4. Mr. Benjamin Magut - Clerk Assistant I
5. Mr. Douglas Katho - Clerk Assistant III
6. Mr. Eugene Apaa - Research Officer
7. Mr. Joe Okongo - Media Relations Officer
8. Ms. Brigita Mati - Legal Counsel
9. Mr. Moge Abdulnasir - Fiscal Analyst
10. Mr. Elijah Ichwara - Audio Recording Officer.

MIN. NO. 031/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting was called to order by the Chairperson for the session.

MIN. NO. 032/2018: OPENING REMARKS FROM THE CABINET SECRETARY FOR ENERGY AND PETROLEUM.

The session began with the opening remarks from the Cabinet Secretary for Energy. He alluded that the Ministry of Energy is an enabler in all sectors. He was of the view that all members should undertake an engagement with the Ministry's SAGAs at a venue preferably in Naivasha in order to have a deeper level of engagement between the committee and the Ministry.

The Cabinet Secretary for Energy and Petroleum congratulated the Members having been elected to parliament and more so for having been appointed to serve in the Departmental Committee on Energy.

He stated that the Ministry is looking forward to work with the Committee and that it will strive to be open as much as possible because it's the committee which will represent its interests in Parliament.

He acknowledged that the Ministry has received a lot of support in the previous five years which has enabled a lot of investment in the energy sector.

He noted that the Ministry is at a strategic position to act as an enabler of the Big Four Agenda of the Government and it will strive to play its role effectively. He informed the Committee the most health facilities in the Country have been connected to the power and that the Ministry is hoping to soon provide power at affordable cost to Industries to spur growth in the manufacturing Industry.

He urged to committee to continue supporting the Sector in terms of Budget allocation for it to effectively carry out its mandate

MIN. NO. 033/2018: PRESENTATION BY THE PRINCIPAL SECRETARY, STATE DEPARTMENT OF ENERGY.

He started by affirming that the energy is an enabler of all sector and as such should be made affordable to all sectors in the country. He further affirmed that the presentation before them was more of a highlight on energy.

He stated that:

- (a) The mission of the state department is to facilitate provision of clean, Sustainable, affordable, reliable and secure energy services for national development while protecting the environment;
- (b) There is a correlation between the growth of GDP and the consumption of energy. In a country where the GDP is high then the consumption of energy is also high. In Kenya, energy per capita consumption is 135 kilowatt hours per year. Developed countries consume in terms of thousands. For there to be a change, the whole supply chain must be addressed;
- (c) The vision for the state-department is "affordable, quality energy for all Kenyans". The issue of affordability is sensitive to all Kenyans. The departments main focus is mainly on the price;
- (d) Institutions in the Ministry of Energy that run across the energy sector include the energy tribunal which deals with arbitration on any dispute that arises in this sector and the energy regulatory commission. This organ defines the interrelationships between the various organisations in energy. There is interdependence in electricity and energy is a supply chain from generation, transmission and retail. The regulator ensures that each organisation in this supply chain is sustainable financially or technically in order to be able to operate the system;
- (e) Hydro electricity is fully exploited and as such cannot be able to supply energy needs of a country wanting to become a developed nation. Therefore, the state department and the government as a whole is seeking other forms of energy such as geothermal and nuclear energy;
- (f) Nuclear energy is sensitive to the environment hence there is need for certification before the plants are operational. The work of KNEB is to align our nuclear plans with the guidelines provided by the International Atomic energy generation;
- (g) The 5000 megawatts since March 2013, a total of 685 MW of new generation capacity has been commissioned bringing the installed capacity to 2,336 MW. This includes 4.65MW of new off-grid capacity.
- (h) Clean coal energy technology is efficient and the country is looking into tap coal reserves in the country.

He informed the committee that the Ministry had been split and the Petroleum department taken to the Ministry of the Petroleum and Mining. He observed there are two very important bodies at the high level in the energy sector which run across the energy sector and these are; the Energy tribunal and The Energy Regulatory Commission.

The Energy Tribunal mainly deals with arbitration of disputes between stakeholders in the energy sector while the Energy Regulatory Commission defines the pricing and the interrelationship between the various stakeholders in the sector right from power generation, transmission to distribution. The commission also strives to ensure all the stakeholders are sustainable financially and technically so that the supply chain that strives to achieve the objectives of the sector is maintained.

He noted the core objectives of Kenya's strategic Energy plan are;

- Increase electricity generation capacity from cheaper, sustainable and reliable energy sources (To cost about 9 US cents for industries and 10 US cents for domestic tariff by 2020)

- Expand and upgrade the transmission and distribution network infrastructure (reduce power loss, lower cost of power, increased revenue generation, stable power network)
- Expand and upgrade the transmission and distribution network infrastructure (reduce power loss, lower cost of power, increased revenue generation, stable power network)

He noted that previous four years, the ministry has been able to move from about 2.6 million customers to 6.5 million customers and average power access rate has increased to 70% which is unprecedented growth rate.

He informed the committee the reason why the 5000+ MW has not been completed is because of the need to balance the supply and the demand of power which is still low. The pillars of the 5000+ MW project are;

- Adequacy – roadmap to raise generation capacity from 2323 MW in 2015 to over 6700 M by 2020
- Reliability- enhanced through diversified energy mix
- Reduce cost- by increasing generation from cheaper energy sources and reduced power losses

The PS informed the committee that most of our energy sources are renewable power plants about 85%. He informed the committee that the committed generation projects amounting to 5,327.3 MW capacity are at various stages of development.

He informed the committee that the current peak demand is 1770 MW against installed capacity of 2336 MW.

He informed members that Fuel cost charge is one of the main challenges that increases the cost of electricity. Several investments have enabled minimization of use of thermal generation of power. Modes of participation to identify ways of minimizing cost of electricity are; competitive Bidding, feed-in tariffs and PPP initiated proposals for concessions.

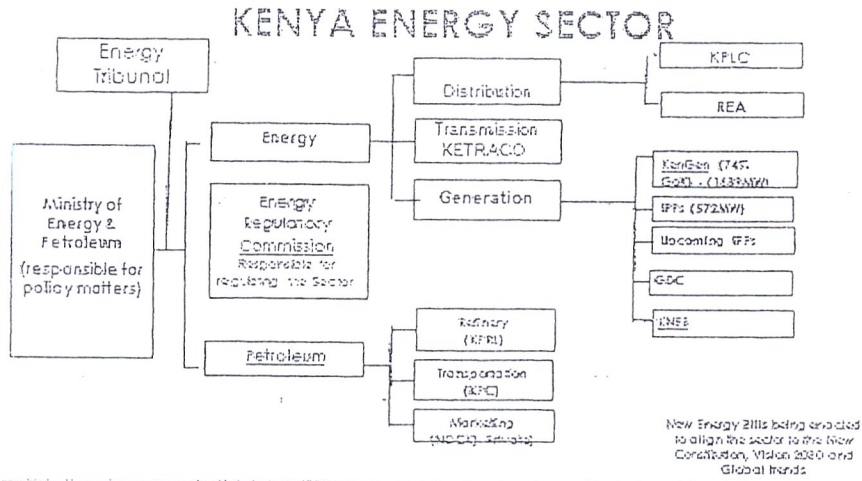
Some of the ways the governments encourages investment in the sector include waiving of duty on power generation equipment's and standard letter of support preparation by the government.

He outlined some of the electricity access strategies which include last mile connectivity, off-grid solutions and Global Partnership Output Based Aid (GPOBA). He also informed members that the Ministry is striving to interconnect with the regional countries which will help maximize the utilization of the renewable energy.

He informed the members that the ministry has strived to install public/street lighting in most urban centers and all county headquarters so as to spur 24 hour economy.

He concluded by urging the committee to come up with favorable policy and regulatory frameworks for energy provision. He said the government is committed to increasing access to modern energy, and will use Renewable Energy solutions as much as possible. He indicated that Development partners and the Private Sector are key partners in energy provision, and as such are Encouraged and Facilitated to participate in energy sector in Kenya

He gave the Committee the structure of the Energy sector as shown in the figure below;

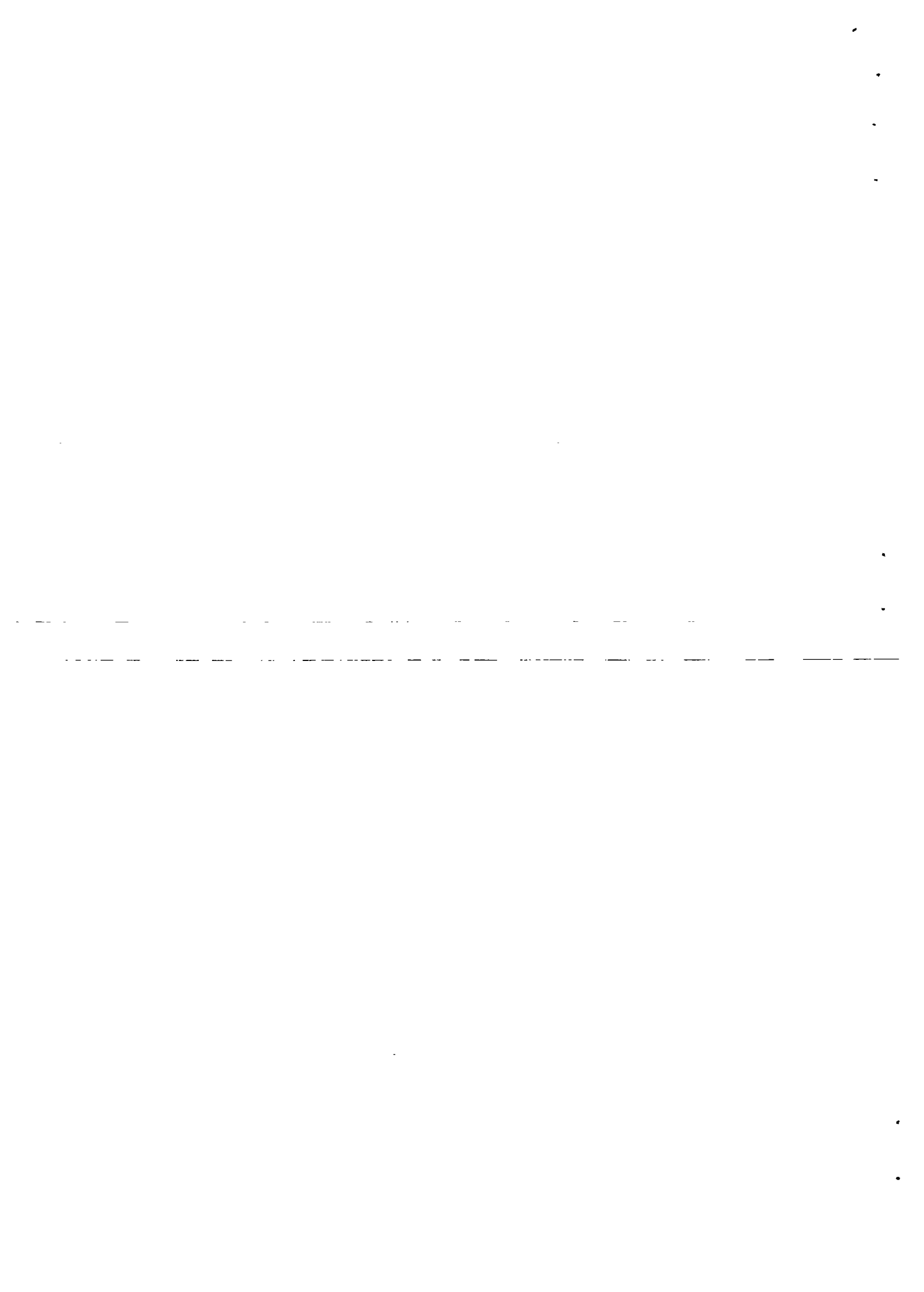


MIN. NO. 034/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Twelve O'clock.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018



MINUTES OF THE 7TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD AT THE ENGLISH POINT MARINA HOTEL IN MOMBASA ON MONDAY 5TH FEBRUARY, 2018 AT 4.30PM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Lemanken Aramat, M.P.
5. The Hon. Vincent Musyoka Musau, M.P.
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Abdikhaim Osman Mohamed, M.P.
8. The Hon. Clement Muturi Kigano, M.P.
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Gitau Faith Wairimu, M.P.
12. The Hon. Mohammed Ali Lokiro, MP
13. The Hon. Cecily Mbarire, M.P.
14. The Hon. Ekomwa Lomenen James, M.P.
15. The Hon. Julius Musili Mawathe, MP
16. The Hon. Ken Chonga, MP
17. The Hon. Tindi Nicholas Mwale, MP
18. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Martin Masinde - Senior Deputy Director, Parliamentary Budget Office.
2. Mr. Nicholas Emejen - Deputy Director Committee Services(NA)
3. Mr. Benjamin Magut - Clerk Assistant I
4. Mr. Douglas Katho - Clerk Assistant III
5. Mr. Eugene Apaa - Research Officer
6. Mr. Joe Okongo - Media Relations Officer
7. Ms. Brigita Mati - Legal Counsel
8. Mr. Moge Abdulnasir - Fiscal Analyst
9. Mr. John Nganga - Audio Recording Officer.

MIN. NO. 026/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting was called to order by the Chairperson for the session.

MIN. NO. 027/2018: PARLIAMENT BUDGET MAKING - THE ROLE OF DEPARTMENTAL COMMITTEES AND INTERFACE WITH THE BUDGET AND APPROPRIATIONS COMMITTEE.

Members were taken through an informative presentation on the budget and the role of the Departmental committees in processing the budget and their interface with Budget & Appropriation Committee.

Members were encouraged to stand firm with their recommendations on the budget when defending it in front of the Budget & Appropriations Committee since they are the experts in the Energy and petroleum sub-sectors and therefore no member in the Budget & Appropriations Committee should purport to be addressing challenges facing the Energy Sector.

The Committee was further impressed on the importance of the sector as an enabler of the Big Four and the lack of the fiscal space in draft proposed draft BPS 2018/19. In this regard the presenter gave a brief highlight on the draft BPS relating to the sector as follows;

- 100% access to affordable and reliable energy by 2022:
 - Exploiting locally available sources of energy including renewable energy potential
 - Developing power plants particularly the 310 MW Lake Turkana wind power plant
 - The two units of Olkaria expected to add 210 MW to grid
 - Continuing investing in the construction of electricity substations

The committee was taken through the steps in budget making as follows:-

- Starts with Budget Policy Statement (BPS). The Committee would make input in the document.
- Members determine how affordable the budget is.
- Prioritize needs and projects.
- Need to ensure that there is value for money.
- The legislature provides an oversight role during the planning stage of the budget making process/cycle.
- Basic timelines in budget making are as follows:-
 - ✓ Budget circular – guidelines.
 - ✓ Budget review and outlook paper.
 - ✓ Budget Policy Statement.
 - ✓ Budget Estimates.
 - ✓ Appropriations Bill.
 - ✓ Finance Bill.
- Budget Estimates – Executive, Judiciary and Legislature. Indicates the ceiling proposed by the different arms of Government.
- In the budgeting process, Members approve borrowing too.

MIN.NO. 028/2018: COMMITTEE INQUIRIES & REPORT WRITING – CONTENT AND STANDARDS

The Committee was informed that an Inquiry is an important tool of holding the executive to account and scrutinize, in greater detail, policy direction of state departments under the purview of any departmental Committee. An inquiry must be public and independent from the executive or the agency being investigated. All committees can conduct inquiries into matters within their remit.

The committee was informed that an inquiry should ideally not take more than one month to conclude through the following stages;

- Choosing topics for Inquiries
- Receipt of terms of reference
- Collecting evidence - Advertising; Letters inviting submissions;
- Processing of submissions - Briefing papers; possible questions.
- Hearings - booking venues and other travel logistics.
- Preparation of a draft report and adoption.
- Presentation to Parliament
- Implementation

The committee was taken through on its powers in relation to evidence taking as provided for in Article 125 of the Constitution of Kenya and Powers and Privileges Act.

After the inquiries/investigations committees are required to produce a report which is basically a presentation of facts and findings, as a basis for recommendations; written for a specific readership, and intended to be kept as a record.

That an inquiry should have the qualities of independence, effectiveness, and promptness as well as have an element of public scrutiny.

The witnesses in an inquiry have to be treated with respect since these witnesses have basic rights which include reasonable notice for the meetings.

The witness should be informed of what matters are before the committee to enable them give their submissions in a precise manner either written submissions and or oral evidence.

The Chairperson of a committee is the sole person responsible for Committee Reports. The Committee should present a report that can be implemented even after the committee spending a lot of time in inquiry and writing of reports.

When a witness comes with a counsel, the witness is expected to speak but is allowed to consult the counsel. The counsel is expected to advice the witness from time to time.

Regarding court rulings against Committee inquiries, the Speaker usually guides the proceedings, it is however, expected that the Committees obey court orders.

The Committee can open an inquiry and report to the House afresh not tabling a report that had been tabled in the past.

MIN. NO. 029/2018: STEPS IN CONSIDERATION OF PUBLIC PETITIONS BY COMMITTEES AND PUBLIC PARTICIPATION.

a. Presentation on Public Petition

The Committee was informed that while considering petitions committees of parliament are required to schedule the petitions for preliminary consideration by the committee; Study the allegations and prayers to identify relevant Departments to

respond to prayers and best tools for addressing those prayers; Undertake background search on the Petition on whether other efforts have been made to resolve and whether the prayers are sought sub-judice or not.

There after the committee is required to Invite petitioners (MP and/or residents/group) to shed more light and clarify on matters contained in the Petition; Invite relevant government agencies to respond to allegations and prayers therein; Draw preliminary findings and prepare draft responses to the prayers in form of a Committee report and If need be, undertake a fact-finding visit to authenticate findings made in meetings.

b. Presentation on public participation

The participants were taken through the Constitutional basis of public participation, what entails Public Participation, Who participates, Areas of Public Participation and Tools for Public Participation. This was on the basis on the provisions of Article 118, 102 and Article 35 of the Constitution of Kenya.

The presenter further informed the participants that Public participation is costly and there is need for provision of adequate resources to facilitate it and necessary national legislation to set minimum standards for public participation.

MIN.NO. 030/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Seven O'clock.

SIGNED.....

(CHAIRPERSON)

DATE.....

10-04-2018

MINUTES OF THE 6TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD AT THE ENGLISH POINT MARINA HOTEL IN MOMBSA ON MONDAY 5TH FEBRUARY, 2018 AT 10.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Lemanken Aramat, M.P.
5. The Hon. Vincent Musyoka Musau, M.P.
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Abdikhaim Osman Mohamed, M.P.
8. The Hon. Clement Muturi Kigano, M.P.
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11. The Hon. Gitau Faith Wairimu, M.P.
12. The Hon. Mohammed Ali Lokiro, MP
13. The Hon. Cecily Mbarire, M.P.
14. The Hon. Ekomwa Lomenen James, M.P.
15. The Hon. Julius Musili Mawathe, MP
16. The Hon. Ken Chonga, MP
17. The Hon. Tindi Nicholas Mwale, MP
18. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Michael Sialai, EBS - Clerk of the National Assembly
2. Mr. Nicholas Emejen - Deputy Director Committee Services(NA)
3. Mr. Benjamin Magut - Clerk Assistant I
4. Mr. Douglas Katho - Clerk Assistant III
5. Mr. Eugene Apaa - Research Officer
6. Mr. Joe Okongo - Media Relations Officer
7. Ms. Brigita Mati - Legal Counsel
8. Mr. Moge Abdulnasir - Fiscal Analyst
9. Mr. John Nganga - Audio Recording Officer.

MIN. NO. 021/2018:

PRELIMINARIES AND INTRODUCTIONS

The sitting was called to order by the Chairperson for the session.

MIN. NO. 022/2018:

MANDATE OF THE DEPARTMENTAL COMMITTEE ON ENERGY

The participants were taken through the legal frame work underpinning constitution and mandates of the departmental committees including the constitution and relevant statutes or standing orders. They consist of an odd number of Members - 11- 19 and

are an extension of the House and undertake delegated tasks and exercise delegated authority. Committees are governed in their proceedings by procedures and practices. Procedure in a Select Committee is as nearly as possible, the same as that in Committee of the Whole House.

The mandate of the committee on energy is captured under Standing order 216 and the second schedule highlighting its oversight role on the areas including Fossil fuels exploration, development, production, maintenance and regulation of energy.

Generally, the committee's roles are oversight, legislative role which include Scrutiny of Bills referred to committee like the Energy Bill and the Petroleum exploration, vetting and approval of public appointments, deliberative role including consideration petitions and roles in the budget process and policies concerning state departments under the purview of the Committee.

The Committee roles can be summarised as: - Legislative role – Scrutiny of Bills referred to the Committee; Deliberative role – consider petitions/Inquiries; Budget process – consideration of budget estimates.

MIN.NO. 023/2018: PROCEDURES GOVERNING COMMITTEE MEETINGS.

On the procedures governing committee meetings it starts with Notice of meetings – given by the clerk indicating date, time venue and agenda and circulated to all members of the committee, followed by the sitting determined by the chairperson or petition by at least 7 members. Meetings outside parliament can only be held with the approval of parliament. Before calling meetings to order there must be quorum there should be strict adherence to 30 minutes rule where if quorum is not achieved within 30 minutes the meeting is called off. The committee is required to meet at least once in two months and minutes of previous meetings confirmed. Failure to attend four consecutive meetings leads to removal and replacement of a member from the committee and members are allowed to attend any committee which they are not members. If a member is mentioned adversely in a matter in front of the committee he/she is required to recuse him/herself from proceedings when matter is debated appear as a witness in person or legal representative to give evidence.

Deliberations in a meeting are limited and confined to the mandate and the matter referred to them by the Assembly and proceeding should be open to the public and the media unless in exceptional circumstances where the Speaker has determined that there are justifiable reasons for the exclusion of the public. A member may be discharged from the committee by the political party who sponsored him/her by writing to the speaker of intention to discharge, Speaker informs Member within three days of receipt of the discharge notice and the member must be heard.

The committee may hold a joint sitting with another committee with the approval of the speaker and has to be chaired on the basis of ranking order. Respective quorum of each committee shall constitute a quorum and reports emanating from such a sitting should be adopted by the majority of the Total Membership.

In decision making, the committee decides by vote and the resolution on any such vote constitutes the decision of the committee. Where a vote on a question is not unanimous, the names of the members voting for and against the question and those abstaining from voting, respectively, shall be recorded in the minutes.

MIN. NO. 024/2018: MANAGEMENT OF COMMITTEE MEETINGS

a. Role of chairperson, members and committee secretariat

The Chairperson leads the committee and is the spokesperson. The chairperson signs the minutes of meetings, Chairs committee meetings, plays a role in ensuring that Members of the Committee are available during debate in the house.

Members have a role of attending meetings to ensure there is quorum for a meeting to take place. The Members play the full representation role by participating in committee meetings and generating business for the Committee.

Members are supposed to be well informed on a matter that is becoming before the committee.

b. The secretariat

The Committee was informed that the Parliamentary Committees are well resourced with a fully-fledged secretariat of Researchers, Legal Counsels, Searjent-At-Arms, Fiscal Anaylsts, Media relations Officers, and Audio officers and headed by a Lead Clerk to the Committee.

The Committee Clerk helps the chairman develop agenda for the meeting, make sure notice of the meeting is sent out to the members, handles correspondences of the committee, administration of oath, handles the committee documents, during meetings the clerks ensure minutes are captured and well recorded.

The Committee clerk is the chief procedural advisor to the chairman as well as the link between the committee and other stakeholders.

The Committee Clerks are responsible for preparations of draft reports for adoption by the committee and tabled in the House for debate.

MIN.NO. 025/2018: ADJOURNMENT

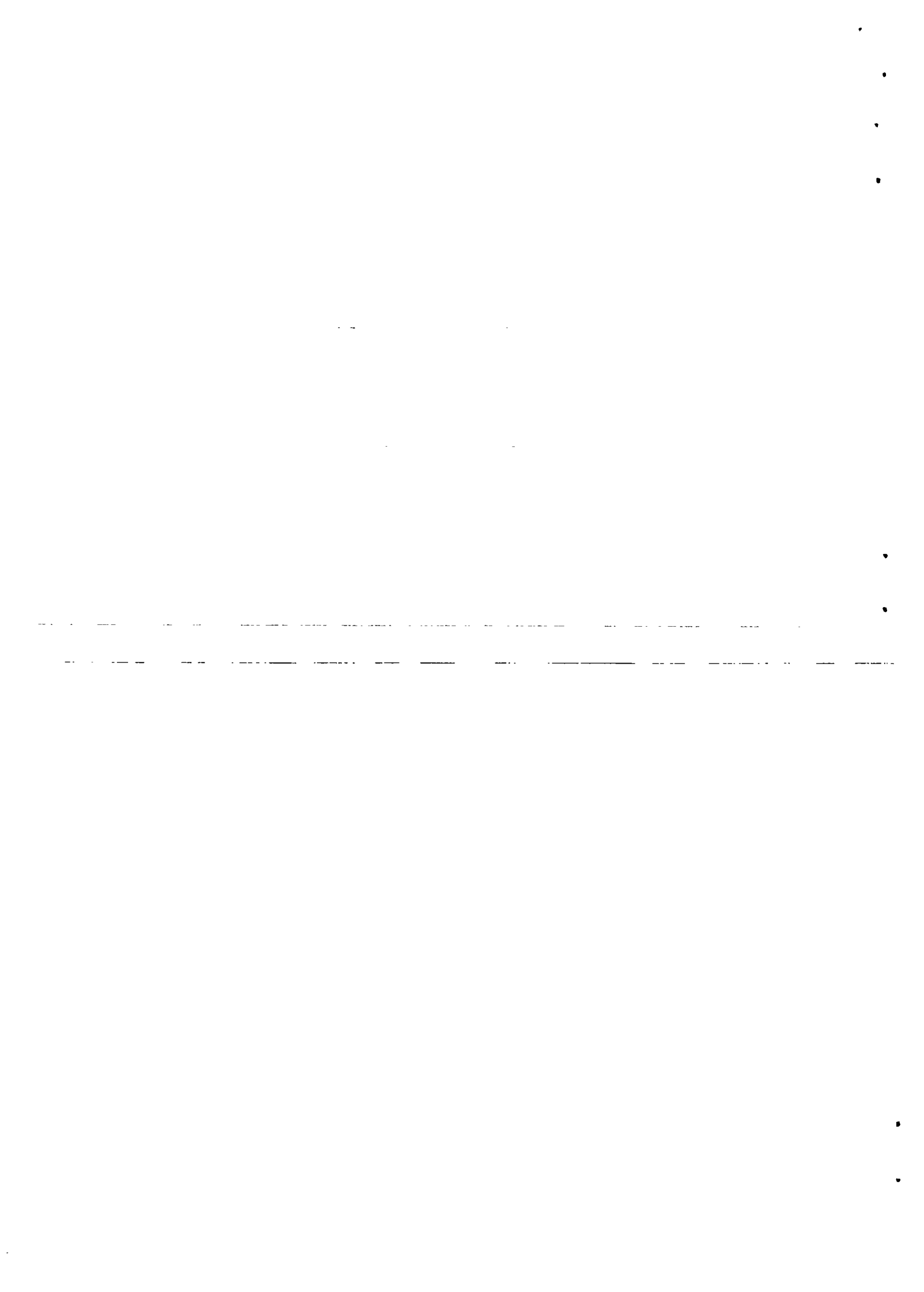
There being no Other Business, the Chairperson adjourned the meeting at 10mins past Four O'clock.

SIGNED.....

(CHAIRPERSON)

DATE.....

10-04-2018



MINUTES OF THE 5TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD AT THE ENGLISH POINT HOTEL IN MOMBASA ON MONDAY 5TH FEBRUARY, 2018 AT 9.00AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Lemanken Aramat, M.P.
5. The Hon. Vincent Musyoka Musau, M.P.
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Abdikhaim Osman Mohamed, M.P.
8. The Hon. Clement Muturi Kigano, M.P.
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Gitau Faith Wairimu, M.P.
12. The Hon. Mohammed Ali Lokiro, MP
13. The Hon. Cecily Mbarire, M.P.
14. The Hon. Ekomwa Lomenen James, M.P.
15. The Hon. Julius Musili Mawathe, MP
16. The Hon. Ken Chonga, MP
17. The Hon. Tindi Nicholas Mwale, MP
18. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Oscar Sudi, Kipchumba, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Michael Sialai - Clerk of the National Assembly
2. Mr. Nicholas Emejen - Deputy Director Committee Services (N/A)
3. Mr. Samuel Kalama - Clerk Assistant I
4. Mr. Benjamin Magut - Clerk Assistant I
5. Mr. Douglas Katho - Clerk Assistant III
6. Mr. Benson Mwale - Clerk Assistant III
7. Mr. Eugene Apaa - Research Officer
8. Mr. Joe Okongo - Media Relations Officer
9. Ms. Brigita Mati - Legal Counsel
10. Mr. Moge Abdulnasir - Fiscal Analyst
11. Mr. John Nganga - Audio Recording Officer.

MIN. NO. 016/2018: PRELIMINARIES AND INTRODUCTIONS

The conference was called to order at 9:20 am where the Vice Chair led the Participants with a word of prayer and, as the session Chair, he immediately welcomed the Chair to make his opening remarks.

MIN. NO. 017/2018: OPENING REMARKS BY THE CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON ENERGY.

The Chair welcomed the members to the retreat and informed the participants that the Cabinet Secretary for the Ministry of Energy and Petroleum would be coming to make his opening remarks and his presentation on the following day (6th Feb. 2018). The chair asked members to be vigilant as they execute their mandate as envisaged in the Schedule of the Standing Orders of the National Assembly especially on issues pertaining to budget with view to achieve the big four agenda.

The chair explained to the members of the Committee that the main responsibility is to oversight the Ministry, State Departments and the Semi-Autonomous Government Agencies as well as the Parastatals under the Energy and Petroleum Sector.

The chair also informed the members that the Committee has a mandate to oversight the budget making process and to oversee how the allocations are used.

The Chair encouraged the Members give the committee the first priority as it is very important and to attend meetings regularly in order to be up to speed with business before the Committee.

MIN.NO. 018/2018: OPENING REMARKS BY THE CLERK OF THE NATIONAL
ASSEMBLY.

The clerk of National Assembly thanked the members for giving him the opportunity to address them and congratulated the Chair and the Vice chair for making back to the 12th Parliament together with the new members. The clerk assured the committee of the support of his office through the secretariat and availability of adequate resources provided by the Parliamentary Service Commission.

The Clerk reminded the members of the significance of Departmental Committees emphasizing on the appropriation act and their powers to amend the budget in cooperation with the Budget & Appropriations Committee. He further reminded them on the importance of prioritizing their agenda when processing Bills, Legislative proposal and petitions.

The Committee is also expected to review Bills relating to energy issues that forms law. A law is a policy and through the passing of laws, Members of Parliament influence policy. There are many interests involved and the Committee must balance the needs of various people including lobbyists.

The Clerk informed the Committee that it will also deal with petitions. The committee needs to balance its when dealing with petitions. Members will be looking up to the Committee when they have issues with energy.

Inspection of projects is also another area in which the Committee needs to be involved. The office of the Clerk will give the necessary support to the Committee to enable it achieve its goals.

The Clerk urged the Committee that the issue of Public participation is very important and the Committee must ensure that as it does its duty, the public are allowed to make their contributions. This is meant to get feedback from the public. Listen to what people say, balance the two and learn. This allows the committee to make informed decisions.

MIN. NO. 019/2018: OBJECTIVES OF THE INDUCTION RETREAT FOR THE DEPARTMENTAL COMMITTEE ON ENERGY.

The participants were taken through the purpose and objectives of the induction and were informed that the retreat emanated from the first meeting of the committee where the Chair and V/chair were elected. It is to this end, that the Directorate of Committees has organized an induction retreat targeting the entire Committee membership.

the purpose of the retreat was to share knowledge with each other as members of the committee and the secretariat serving them, understand the specific Mandate of the Committee including holding the executive to account as the committee charged with overseeing the energy and petroleum sub- sectors, Understand the procedures governing Committee meetings including powers and privileges; Interrogate its relations with other Committees of the House and understand how to build synergy; Interact with key stakeholders in the energy and Petroleum sub-sectors; Set the Committee's Performance Targets for the Second Session of the Twelfth Parliament and Develop Committee Work Plan.

Specifically, the following outcomes were expected of the workshop/retreat;

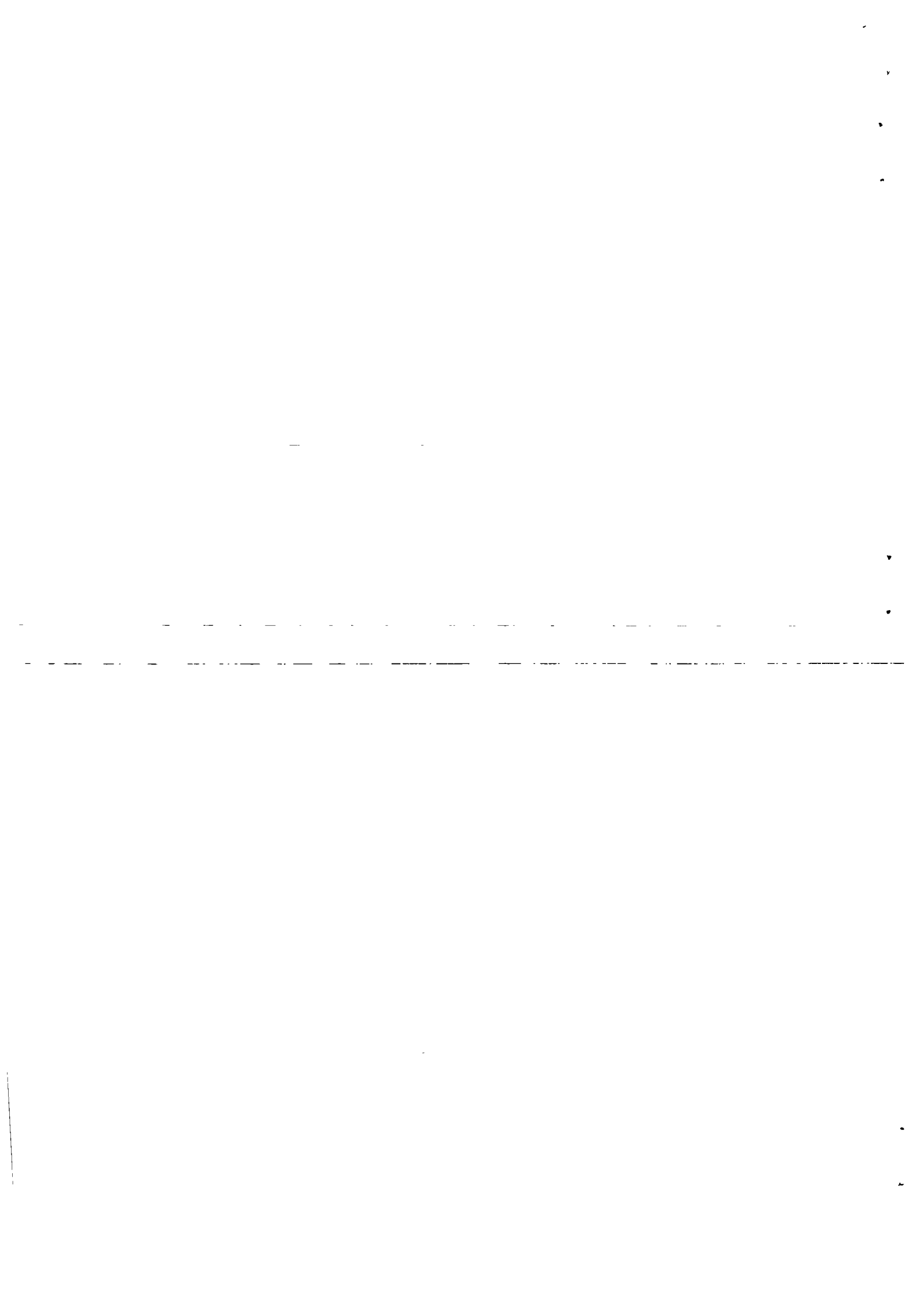
- i. An understanding of the role of Chairperson, Committee Members and Secretariat in the effective transaction of Committee business;
- ii. A better understanding of the mandate of the Committee including its oversight role;
- iii. Adoption of the Committee Work plan.

MIN.NO. 020/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past one pm.

SIGNED.....
(CHAIRPERSON)

DATE..... 16 04 2018



MINUTES OF THE 4TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE COMMITTEE ROOM ON 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON WEDNESDAY 31ST JANUARY, 2018 AT 10.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Joseph Wathigo Manje, M.P.
4. The Hon. Lemanken Aramat, M.P.
5. The Hon. Vincent Musyoka Musau, M.P.
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Abdikhaim Osman Mohamed, M.P.
8. The Hon. Clement Muturi Kigano, M.P.
9. The Hon. Elisha Odhiambo, MP
10. The Hon. Elsie Muhanda, MP
11. The Hon. Gitau Faith Wairimu, M.P.
12. The Hon. Mohammed Ali Lokiro, MP
13. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Cecily Mbarire, M.P.
2. The Hon. Ekomwa Lomenen James, M.P.
3. The Hon. Oscar Sudi, Kipchumba, M.P.
4. The Hon. Julius Musili Mawathe, MP
5. The Hon. Ken Chonga, MP
6. The Hon. Tindi Nicholas Mwale, MP

IN ATTENDANCE:

MINISTRY OF ENERGY AND PETROLEUM

1. Hon. Charles Keter, EGH - Cabinet Secretary
2. Eng. Dr. Joseph Njoroge - Principal Secretary, State Department of Energy
3. Eng. Isaac Kiva - Secretary, Renewable Energy
4. Eng. Julius Mwathani - Secretary, Electrical
5. Dr. Ken Tarus - MD & CEO Kenya Power and Lightening Company
6. Mrs. Rebecca Miano - MD & CEO Kenya Electricity Generating Company
7. Ms. Jacqueline Rono - Office of the Cabinet Secretary
8. Eng. Daniel Tare - GM, Kenya Power and Lightening Company
9. Eng. Solomon Kariuki - Director Operations, KENGEN
10. Mr. Kevin Sang - Chief Communications Officer, KPLC
11. Eng. Richard Muiru - MOEP Consultant, Electrical
12. Mr. Geoffrey Rono - Communications, CS Office
13. Mr. Martin Nyaga - MOEP, Communications

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant III

- 3. Mr. Eugene Apaa - Research Officer
- 4. Mr. Joe Okongo - Media Relations Officer
- 5. Ms. Brigita Mati - Legal Counsel
- 6. Mr. Moge Abdulnasir - Fiscal Analyst
- 7. Mr. John Nganga - Audio Recording Officer.

MIN. NO. 011/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer and thereafter the meeting's agenda was adopted by Members present.

MIN. NO. 012/2018: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING AND CONSIDERATION OF MATTERS ARISING THEREOF.

The minutes of the third Sitting of the Departmental Committee on Energy were deferred to a later meeting as the committee was having witnesses from the Ministry of Energy and Petroleum

MIN.NO. 013/2018: MEETING WITH THE CABINET SECRETARY, MINISTRY OF ENERGY AND PETROLEUM REGARDING ISSUES BEFORE THE DEPARTMENTAL COMMITTEE ON ENERGY.

The Cabinet Secretary from the Ministry of Energy and Petroleum appeared before the Committee regarding the following issues: -

- i. The recent power outage in the country on the 9th January, 2018.

The CS informed the committee that a similar outage happened on the 9th of January, 2017. This was as a result of a fault on the conductors at the geothermal power plant in Olkaria and therefore the Nairobi North substation in Dandora became dysfunctional.

There was need to switch off all the powerlines and to evacuate power from Olkaria to Western Region and to Mombasa as well. Although the Country was not completely in the dark as Power from Uganda was on. The Engineers later on switched the power step by step and the whole country power lines were eventually restored.

The Committee was informed that the power generation in the country has been stepped up and that that Suswa, Olkaria, Isinya, Mombasa, Athi river, Dandora Substations have a backup mechanism. The Committee was however informed that only Muhoroni, Sondu Miriu and some parts of Western Kenya will still experience difficulties in terms of power outage.

The CS informed the Committee that they have established dams in Makwaka, Lamu, Malindi and Turkana and Garissa.

- ii. The backdating of the KPLC bills as a result of the omission to charge the fuel costs.

The Committee was informed that whereas the matter is before a court. That that postpaid customers are currently 2.4M while the prepaid customers are about 3.2M. The affected amount was estimated to be Ksh. 800,000/-. The committee was informed that the backdating was as a result of omission to include the charges rationed for fuel during the final billing to the post paid customers.

The CS assured the Committee that the Ministry has undertaken that there will be no more estimation of bills and that KPLC have acquired a software for meter reading to enhance accountability and fairness.

- iii. Unstable fuel pump prices as announced by the ERC.

The ERC as a regulator has the mandate to ensure that consumers are not exposed to exorbitant fuel pump prices. There is a general upward trend in fuel charges. The standard world fuel price is at 30usd per barrel whereas Kenya still stands at 60usd per barrel.

MIN. NO. 014/2018: COMMITTEE OBSERVATIONS

Sources of independent Power Supply, Power Thermal Agreements under execution and feeding tariffs

- a. The Committee observed that there is a Kw/h Purchase agreement, KPLC lump sum Energy Supply of unit cost and fuel cost to customer, which is very high.
- b. The committee also was concerned that there could be a collusion between high cost switching on the power, since there is no adequate information on the least routing of thermal power to Kenyans. How much is off/ on grid.
- c. That the ERC costing does not reflect international cost of oil per barrel.
- d. The committee observed that the power outage in Kenya is far too high as other Countries such as Denmark is a maximum of 30minutes. This has a negative effect in attracting investors into the country.
- e. That the diesel fuels is not necessary.
- f. There is need for a full disclosure of the IPPS in the wind and thermal.

Nuclear energy, last Mile Connectivity and study tours and Conferences

- g. The C.S. undertook to update the committee that the last Mile Connectivity project is 47% complete and that they would embark on the last phase of the project in the month of February, 2018. Members of Parliament were asked to ensure that all their respective constituencies are taken care of.
- h. The Cabinet Secretary informed the Committee that there is need for the Committee to undertake a study tours in countries such as Indonesia for coal, California, Philippines for geothermal so as to inform the committees input in the upcoming Energy Bill and the Petroleum Bill.
- i. The Ministry undertook to circulate to the committee all the relevant conferences and study tours that will be beneficial to the committee.
- j. The Committee proposed that the Kenya Nuclear Energy Board be upgraded to a full parastatal since nuclear energy is a prospect that Kenya would not wish to ignore.

MIN.NO. 015/2018:

ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past one pm.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE COMMITTEE ROOM ON 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON TUESDAY 25TH JANUARY, 2018 AT 10.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Elisha Odhiambo, MP
4. The Hon. Mohammed Ali Lokiro, MP
5. The Hon. Clement Muturi Kigano, M.P.
6. The Hon. Gitau Faith Wairimu, M.P.
7. The Hon. Elsie Muhanda, MP
8. The Hon. Julius Musili Mawathe, MP
9. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Joseph Wathigo Manje, M.P.
2. The Hon. Lemanken Aramat, M.P.
3. The Hon. Amina Gedow Hassan, M.P
4. The Hon. Abdikhaim Osman Mohamed, M.P
5. The Hon. Tindi Nicholas Mwale, MP

ABSENT WITHOUT APOLOGY

1. The Hon. Cecily Mbarire, M.P.
2. The Hon. Ken Chonga, MP
3. The Hon. Oscar Sudi, Kipchumba, M.P.
4. The Hon. Vincent Musyoka Musau, M.P.
5. The Hon. Ekomwa Lomenen James, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Benjamin Magut - Clerk Assistant I
2. Mr. Douglas Katho - Clerk Assistant III
3. Ms. Jemimah Waigwa - Legal Counsel
4. Mr. Moge Abdulnasir - Fiscal Analyst
5. Mr. Fatuma Abdi - Audio Recording Officer.

MIN. NO. 006/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer by the Hon. Faith Gitau, MP and thereafter the meeting's agenda was adopted by Members present.

MIN. NO. 007/2018: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING AND CONSIDERATION OF MATTERS ARISING THEREOF.

The minutes of the Second Sitting of the Departmental Committee on Energy were read and confirmed as true recordings on a proposal by the Hon. Dr. Robert Pukose, MP, Vice Chairperson and seconded by the Hon. Elisha Odhiambo, MP.

- i. Under Minute Min. no. 004/2018, any other business regarding the meeting with the Kenya Power and Lightning Company and the Kenya Electricity Generation Company (KENGEN) and Energy Regulation Commission with the Departmental Committee on Energy to discuss the recent power outage, the unstable fuel prices and the intended backdating of electricity bills as a result of fuel levy that was not billed on time. The Committee was informed that the Cabinet Secretary was a way due to an earlier planned engagements and will therefore be available to respond to the issues on Thursday 1st February, 2018.

MIN.NO. 008/2018: CONSIDERATION OF THE LEGACY / EXIT REPORT OF THE DEPARTMENTAL COMMITTEE ON ENERGY AND ICT OF THE 11TH PARLIAMENT.

The Committee considered the legacy / exit report of the Departmental Committee on Energy and ICT of the 11th Parliament and noted the following:-

- i. The bulk of the report concentrated on the issues of ICT and that energy matters were limited.
- ii. That the Petroleum (Exploration, Development and Production) Bill, 2015 and the Energy Bill, 2015 that were passed by the National Assembly had lapsed at the end of the 11th Parliament since the Senate was not in concurrence with mediated version of the two Bills.
- iii. The defunct committee undertook an inquiry and tabled a report into issues surrounding the coal mining in Mui Basin and Lamu.
- iv. The defunct Committee undertook an inquiry but did not conclude the report into the complaints against the former KPLC's MD, Dr. Ben Chumo and the current Ag. MD Mr. Kenneth Tarus and other members of the tender committee over illegal award of tenders and over expenditure on the Last Mile Connectivity Project.
- v. The committee considered a petition by the residents of Homabay County on the investigations into the operations of the Geothermal Development Company and report was tabled.

MIN. NO. 009/2018: ANY OTHER BUSINESS

- i. The Members resolved to undertake a thematic approach in engaging with the various parastatals within the purview of the committee in the following categories:-
 - a. Power generation: - Kenya Electricity Generating Company (KENGEN),

Geothermal Development Company (GDC), Independent Power Producers Institutions (IPPI) and State department in charge of renewable energy such as wind and solar.

- b. Power distributions: - Kenya Power and Lightning Company (KPLC), Kenya Electricity Transmission Company (KETRACO) and Rural Electrification Authority (REA).
- c. Oil and Gas: Kenya Pipeline and National Oil Corporation in Kenya.
- d. Energy Regulation: and the Energy Tribunal
- e. Oil and gas Regulation:- Energy Regulatory Commission

The committee resolved to undertake a retreat with each of the clusters and thereafter carry out a field visit to each of the installations of the institutions.

- ii. The members considered and adopted the proposed induction workshop scheduled between 4th and 8th February, 2018.
- iii. The committee resolved to undertake study tours to enhance the capacity and knowledge on matters of Energy.

MIN.NO. 010/2018: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Noon.

SIGNED.....

(CHAIRPERSON)

DATE..... 10-04-2018

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MINUTES OF THE 2ND SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE COMMITTEE ROOM on 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON TUESDAY 16TH JANUARY, 2018 AT 10.30AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Joseph Wathigo Manje, M.P.
5. The Hon. Lemanken Aramat, M.P.
6. The Hon. Amina Gedow Hassan, M.P.
7. The Hon. Abdikhaim Osman Mohamed, M.P.
8. The Hon. Elisha Odhiambo, MP
9. The Hon. Elsie Muhanda, MP
10. The Hon. Julius Musili Mawathe, MP
11. The Hon. Ken Chonga, MP
12. The Hon. Mohammed Ali Lokiro, MP
13. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Oscar Sudi, Kipchumba, M.P.
2. The Hon. Vincent Musyoka Musau, M.P.
3. The Hon. Clement Muturi Kigano, M.P.
4. The Hon. Gitau Faith Wairimu, M.P.
5. The Hon. Tindi Nicholas Mwale, MP
6. The Hon. Ekomwa Lomenen James, M.P.

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Mr. Douglas Katho - Clerk Assistant III
2. Ms. Jemimah Waigwa - Legal Counsel
3. Mr. Moge Abdulnasir - Fiscal Analyst
4. Mr. David Ngeno - Research Officer
5. Mr. Joe Okongo - Media Relations Officer
6. Mr. Nimrod Ochieng' - Audio Recording Officer.
7. Mr. Onesmus Kiragu - Serjeant-At-Arms

MIN. NO. 001/2018: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer by Chairperson and thereafter the meeting's agenda was adopted by Members present.

The Chairperson welcomed back the members from the Christmas recess and informed that the Speakers Communications during the adjournment directed that committee Sittings resume after the 15th of January.

MIN. NO. 002/2018: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING AND CONSIDERATION OF MATTERS ARISING THEREOF.

The minutes of the previous Sitting were read and confirmed as true recordings on a proposal by Hon. Elsie Muhanda and seconded by Hon. Ken Chonga.

- i. Under Minute Min. no. 004/2017, any other business regarding the Induction workshop, the committee was informed that the retreat will be held between 4th and 8th February, 2018 due to logistical technicalities.

MIN.NO. 003/2017: ROLES OF THE COMMITTEE SECRETARIAT.

The members of the Committee Secretariat outlines their various roles and informed the committee that they are readily available to provide services to the members of the committee at any time. The Secretariat Includes:-

- | | | |
|------------------------|---|--------------------------|
| 1. Mr. Benjamin Magut | - | Lead Clerk Assistant |
| 2. Mr. Douglas Katho | - | Clerk Assistant III |
| 3. Ms. Brigita Matie | - | Legal Counsel |
| 4. Mr. Moge Abdulnasir | - | Fiscal Analyst |
| 5. Mr. Eugene Akaa | - | Research Officer |
| 6. Mr. Joe Okongo | - | Media Relations Officer |
| 7. Mr. Elijah Ichawara | - | Audio Recording Officer. |
| 8. Mr. Onesmus Kiragu | - | Serjeant-At-Arms |

MIN.NO. 004/2017: ANY OTHER BUSINESS

- ii. The Members resolved to invite the Kenya Power and Lightning Company (KPLC) and the Kenya Electricity Generation Company (KENGEN) to a meeting on 25th January to deliberate the issue of recent power outage in most parts of the country.
- iii. The members also resolved to invite the Energy Regulation Commission to apprise the committee regarding the unstable fuel prices in the country.
- iv. The Members also resolved to invite KPLC at a later date to deliberate on the issue of fuel levy that will result in KPLC customers being charged in arrears.
- v. The members also expressed the need to ventilate on the nuclear energy development as a committee.

MIN.NO. 005/2017: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Noon.

SIGNED.....
(CHAIRPERSON)

DATE..... 10-04-2018

MINUTES OF THE FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY HELD IN THE COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS ON WEDNESDAY 20TH DECEMBER, 2017 AT 11.00AM

MEMBERS PRESENT

1. The Hon. David Gikaria, M.P. - Chairperson
2. The Hon. (Dr.) Robert Pukose, M.P. - Vice Chairperson
3. The Hon. Cecily Mbarire, M.P.
4. The Hon. Ekomwa Lomenen James, M.P.
5. The Hon. Joseph Wathigo Manje, M.P.
6. The Hon. Lemanken Aramat, M.P.
7. The Hon. Oscar Sudi, Kipchumba, M.P.
8. The Hon. Vincent Musyoka Musau, M.P.
9. The Hon. Amina Gedow Hassan, M.P
10. The Hon. Abdikhaim Osman Mohamed, M.P
11. The Hon. Clement Muturi Kigano, M.P.
12. The Hon. Elisha Odhiambo, MP
13. The Hon. Elsie Muhanda, MP
14. The Hon. Gitau Faith Wairimu, M.P.
15. The Hon. Julius Musili Mawathe, MP
16. The Hon. Ken Chonga, MP
17. The Hon. Tindi Nicholas Mwale, MP
18. The Hon. Walter Owino, MP

ABSENT WITH APOLOGY

1. The Hon. Mohammed Ali Lokiro, MP

IN ATTENDANCE:

NATIONAL ASSEMBLY

1. Ms. Florence Abonyo - Deputy Clerk / Director Committee Services
2. Mr. Benjamin Magut - Clerk Assistant I
3. Mr. Douglas Katho - Clerk Assistant III
4. Mr. Salem Lorot - legal Counsel
5. Mr. Joe Okongo - Media Relations Officer
6. Mr. Nimrod Ochieng' - Audio Recording Officer.
7. Mr. Moge Abdulnasit - Fiscal Analyst
8. Mr. Onesmus Kiragu - Serjent-at-arms

MIN. NO. 001/2017: PRELIMINARIES AND INTRODUCTIONS

The sitting's proceedings commenced with a word of prayer by the Director Committee Services and thereafter the meeting's agenda was adopted by Members present.

The Director Committee Services welcomed and congratulated members for their appointment to the Committee and asked both the members and the Secretariat to introduce themselves. She cited relevant sections of the Standing orders that directly relate to the elections and operations of the Committee. She informed Members that the Committee in discharging its mandate will be governed by the provisions of the Standing Orders regarding Committee operations.

MIN. NO. 002/2017: ELECTION OF THE CHAIRPERSON AND THE VICE CHAIRPERSON

The Director Committee Services drew the attention of the Members to the provisions of the Standing order No. 179(6): She informed the Committee that Hon. David Gikaria and Hon. Dr. Robert Pukose are the only candidates who submitted their nomination papers by close of the nomination period for the positions of the Chairperson and the Vice Chair persons respectively.

According to the nomination forms, the Hon. David Gikaria was proposed for the position of the Chairperson by the Hon. James Lomenen and then Seconded by the Hon. Faith Gitau whereas the Hon. Dr. Robert Pukose was proposed for the position of the Vice Chairperson of the Committee by the Hon. David Gikaria and then Seconded by the Hon. Lemanken Aramat.

The Director then invoked the provisions of the Standing order no. 179(12). If only one candidate is nominated for election of the Chairperson or the Vice chairperson, the clerk at the expiry of the nomination period forthwith declare the candidate as elected without any vote being required.

To that end, the Hon. David Gikaria and the Hon. Robert Pukose were declared as duly elected Chairperson and Vice Chairperson respectively of the Departmental Committee on Energy.

Thereupon, the Hon. David Gikaria, MP and the Hon. Dr. Robert Pukose assumed theirs seats respectively.

MIN.NO. 003/2017: REMARKS BY THE CHAIRPERSON AND THE VICE-CHAIRPERSON

- i. The Chairperson thanked the members for the honour of electing him and the confidence they had bestowed upon him. He pledged to serve the committee with dedication and called for cooperation and the need to work as a team.
- ii. The Vice chairperson also thanked the Members for electing him and pledged to work closely with the chairperson in serving the Committee with commitment.

MIN.NO. 004/2017: ANY OTHER BUSINESS

- i. The Members congratulated the chairperson and the Vice chairperson on their elections. The members agreed to fully support the Committee leadership in working as a team with consensus and providing equal opportunities that will benefit the nation as a whole.
- ii. The members resolved to hold an induction workshop between 23rd and 27th of January, 2018 in Mombasa so as to familiarize themselves with the operations and procedures of the committee as well as relevant aspects of legislation, oversight and representations. The Induction workshop will also provide the members of the committee to be apprised with the business that are currently before the committee.
- iii. The members were also requested to provide correct spelling names and an updated contact to the committee Secretariat.

MIN.NO. 005/2017: ADJOURNMENT

There being no Other Business, the Chairperson adjourned the meeting at 10mins past Noon.

SIGNED.....

(CHAIRPERSON)

DATE..... 10-04-2018

