

REPUBLIC OF KENYA



*Enhancing Accountability*

 THE NATIONAL ASSEMBLY PAPERS LAID <b>REPORT</b> DATE: 24 NOV 2021	
DAY: WED	
TABLED BY:	L. O. M
CLERK-AT-THE-TABLE:	 HTO

**THE AUDITOR-GENERAL**

**ON**

**ENERGY AND PETROLEUM REGULATORY  
AUTHORITY**

**FOR THE YEAR ENDED  
30 JUNE, 2020**



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**ANNUAL REPORT AND FINANCIAL STATEMENTS**



**FOR THE FINANCIAL YEAR ENDING  
JUNE 30, 2020**

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

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# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

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# Energy & Petroleum Regulatory Authority

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## Key Entity Information And Management

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### 1. Background information

#### 1.1. Legal framework

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

#### 1.2 Principal activities

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

### 2. Key management

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

#### 2.1. Board members

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

Name	Designation	Status
Hon. Justice (Prof) Jackton B. Ojwang	Chairman	Appointed on 12/05/2020
Mr. Joshua Oigara	Former Chairman	Retired on 17/03/2020
Mr. Pavel Robert Oimeke	Director General (DG)	
Eng. Joseph Njoroge	PS, Ministry of Energy (MOE)	
Dr. Sellah J. Kebenei	Board Member	
Mr. Wanjuki Muchemi	Board Member	Appointed on 06/09/2019
Eng. Samuel N. Maugo	Board Member	
Ms. Lillian Mahiri Zaja	Board Member	
Dr. Macharia Irungu	Board Member	Retired on 17/07/2019
Prof. George Achoki	Board Member	
Ms. Jacqueline Mogeni	Representative of Council of Governors	
Ms. Lucy Mugwe	Representative National Treasury	
Mr. Daniel Kiptoo	Representative of PS MoPM	
Mr. Moses Gitari	Alternate to the PS Energy	
Mr. Andrew Kamau	PS, State Department For Petroleum	

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## Key Entity Information And Management

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### 2.2 Management

The key management personnel who held office during the financial year ended 30th June 2020 and who had direct fiduciary responsibilities were:

Designation	Name
Director General	Mr Pavel Oimeke
Board Secretary & Director Legal Services	Ms. Mueni Mutung'a
Director Petroleum & Gas	Eng. Edward Kinyua
Principal Renewable Energy Officer	Ms. Caroline Kimathi
Director Economic Regulation	Dr. Frederick Nyang
Ag. Director Corporate Services	CPA. James Kilonzo
Director Enforcement & Consumer Protection	Mr. Cyprian Nyakundi
Manager, Supply Chain Management	Ms. Loise Thuge
Ag. Manager Corporate Strategy & Performance	Ms. Esther Njengah
Manager, Internal Audit & Risk Assurance	CPA. Everlyne Orege



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## Key Entity Information And Management

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### 2.3. Fiduciary Oversight Arrangements

#### The Authority

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

#### Board Finance and Administration Committee

The Authority's Finance and Administration Committee is chaired by a non-Executive Board members and meets at least once on quarterly basis. The members are Eng. Samuel Maugo (Chair), Mr. Wanjuki Muchemi, Ms. Jacqueline Mogeni, Dr Sellah Kebenei and Ms. Lilian Mahiri Zaja, and Mr. Pavel R. Oimeke. The Committee's responsibilities are to ensure sound financial reporting, internal system controls, business plans and budgets, procurement, ICT, Public Relations, administration and staff matters.

#### Board Audit & Risk Committee

The Audit Committee is chaired by a non-executive Director and the members are non-Executive Directors. The members are Prof. George Achoki (Chair), Mr Moses Gitari, Mr. Daniel Kiptoo, and Ms. Lucy Mugwe. The responsibilities of the committee are to review the financial information of the Authority, monitoring the effectiveness of management information and internal control systems, deliberate on significant findings arising from both internal and external audits, and review the overall risks facing the Authority.

#### Board Technical Committee

The Technical Committee is chaired by a non-Executive director and meets at least on quarterly basis. The members are Dr. Sellah Kebenei (Chair), Eng. Samuel Maugo, Prof George Achoki, Mr. Daniel Kiptoo, Ms. Jacqueline Mogeni Mr. Moses Gitari and Mr. Pavel R. Oimeke. The Committee's responsibilities are to provide strategic technical direction of EPRA and to approve technical plans, activities, reports and budgets.

### 3. Authority headquarters

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

# Energy & Petroleum Regulatory Authority

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## Key Entity Information And Management

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### 4. Authority contacts

Telephone (254) 20 2847200

Email: info@epra.go.ke

website: www.epra.go.ke

### 5. Authority bankers

#### 6.1 KCB Bank

Moi Avenue Branch

P.O Box 48400

00100

Nairobi, Kenya

#### 6.2 National Bank of Kenya

Harambee Avenue Branch

P.O Box 41862

00100

Nairobi, Kenya

#### 6.3 NCBA Bank

Upperhill Branch

P.O Box 30437

00100

Nairobi, Kenya

### 6. Auditors

Auditor General

Annivesary Towers

P.O Box 30084-00100

Nairobi, Kenya

### 7. Principal legal advisor

The Attorney General

State Law Office-Harambee Avenue

P.O Box 40112-00200


Nairobi, Kenya



# Energy & Petroleum Regulatory Authority

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## Board members

 <p>Hon. (Prof) Jackton Boma Ojwang Chairman</p>	<p>Hon. Justice (Prof) Jackton B. Ojwang, was appointed Chairman of EPRA's Board of Directors for a four-year term with effect from 12<sup>th</sup> May 2020. Prof. Ojwang is a retired judge of the Supreme Court of Kenya with a span of 45 years' experience in the legal profession.</p> <p>Prof. Ojwang has had an illustrious 17-year career in the Judiciary after having been first appointed a high court Judge in 2003 and then elevated to the Supreme Court in 2011 as one of the key seven Judges of the newly created apex court.</p> <p>He holds Bachelor's and Master's degrees in Law from the University of Nairobi and a PhD in Comparative Constitutional Law from Downing College, Cambridge. In 2015, he earned a Doctor of Laws degree (LLD) from the University of Nairobi making him the first sitting judge to receive the Degree. He is an accomplished scholar and has authored numerous academic papers and other scholarly works. He has also taught at reputable universities around the world including the University of Nairobi where he served for 27 years. He has also been a visiting Associate Professor of Law at the J. Reuben Clark Brigham Young University Law School in the United States.</p> <p>Prof. Ojwang was awarded the University of Nairobi's Staff Merit Award in recognition of his outstanding contribution towards the University's mission. He was also bestowed the coveted East African Law Society Senior Lawyer of Year Award in 2013 for his remarkable legal and judicial career. up to February 2020, he sat on the Council of Legal Education Board where he chairs the Quality Assurance &amp; Compliance Committee.</p> <p>Date of Birth: 10<sup>th</sup> February, 1950</p>
 <p>Mr. Pavel Robert Oimeke Director General</p>	<p>Mr. Pavel Robert Oimeke is a renewable energy and energy efficiency specialist with close to two decades of experience. Eng. Oimeke holds a Bachelor's degree in Chemical and Process Engineering from Moi University, a Diploma in Energy Planning and Use from Life Academy, Sweden; a Certificate in Corporate Governance and is currently in the final stages of completing a Master's degree in Sustainable Energy Engineering from Kenyatta University.</p> <p>He is registered with the Institute of Engineers of Kenya (IEK), the Association of Energy Professionals East Africa (AEPEA), and Engineers Board of Kenya (EBK). He is also a member of the Institute of Leadership and Management (ILM), UK.</p> <p>Date of Birth: 29<sup>th</sup> April 1976</p>
 <p>Eng. Joseph Njoroge Principal Secretary, Ministry of Energy</p>	<p>Eng. Dr. Joseph K Njoroge has wide experience in power engineering and management. He joined KPLC in 1980 and rose through the ranks to become Managing Director in June 2007. Eng. Njoroge holds a Bachelor of Science degree in electrical engineering and Master of Business Administration with a major in strategic Management and a PhD in Business Administration.</p> <p>He is a Chartered Electrical Engineer, a member of the Institution of Engineering and Technology, UK, a Registered Consulting Engineer, and is also a Fellow of the Institution of Engineers of Kenya. He is also Chairman of the MBA Chapter of University of Nairobi Alumni Association.</p> <p>Date of Birth: 16th June 1958</p>

# Energy & Petroleum Regulatory Authority

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## Board members




 <p>Mr. Andrew Kamau, CBS Principal Secretary, State Department for Petroleum</p>	<p>Mr Kamau has vast experience in the oil and gas sector spanning more than twenty-five (25) years.</p> <p>Prior to his appointment he worked for multinationals in East Africa and major trading organisations in Europe and South Africa in the energy and mining sector. He was awarded the deal maker of the year 2005 by Global Pacific partners.</p> <p>Mr. Kamau has advised on various petroleum upstream, mid/downstream ventures in countries in the region. He has extensive experience in the mining and Oil &amp; Gas exploration sectors, having been a director of the oldest Johannesburg Stock Exchange listed mining company, Sallies Ltd, Drilllex Ltd, a mineral exploration drilling company with drilling rigs in South Africa, Mozambique and Zambia. In addition, he has been a director of Gulf of Guinea Petroleum Company, a junior oil exploration company with acreage in Republic of Congo and Gabon.</p> <p>Date of Birth:</p>
 <p>Eng. Samuel N. Maugo Board Member</p>	<p>Eng. Maugo holds a Masters degree in Structural Engineering from Concordia University, Montreal Canada as well as a Bachelor of Science degree in civil engineering from the University of Nairobi.</p> <p>He is a registered consulting engineer with Engineers Board of Kenya (EBK) and a member of the Institution of Engineers of Kenya (MIEK). He was a lecturer at the Civil Engineering Department of the University of Nairobi for 18 years, a principal partner at Samez Consultants, a firm of consulting engineers and a commissioner at Electoral Commission of Kenya (2007-2008).</p> <p>Eng. Maugo has been the managing director of Multiscope Consulting Engineers Ltd from 2007 to date and has served as a Board Member at EPRA since April 2015.</p> <p>Date of Birth: 1<sup>st</sup> January 1955</p>
 <p>Dr. Sellah J. Kebenei Board Member</p>	<p>Dr. Kebenei, a senior lecturer (academician) at Kabarak University, has conducted extensive research in the field of Organic and Environmental Chemistry.</p> <p>She began her academic career at the University of Nairobi in 1981 where she graduated with a Bachelor of Science Degree (BSc), with a Major in Chemistry. She subsequently did Master of Philosophy (M.Phil.) Degree in Chemistry at the Moi University, Eldoret and graduated in 2003. She holds a Doctor of Philosophy Degree in Chemistry (PhD) from the same university (2009).</p> <p>From 2006 to 2015, she served as Head of Environmental and Life Science Department at the Kabarak University. Since 2016 to date, she has served as Head of Physical and Biological Sciences Department at the same University. She served as acting Dean for the School of Science, Engineering and Technology (2014) and as Director of the Institute of Post-Graduate Studies and Research (2016).</p> <p>She was coordinator for the development of the School of Medicine and Health Science from 2009 to 2014, which resulted in the launching of Nursing and Clinical Medicine Degree program.</p> <p>Date of Birth: 28<sup>th</sup> February, 1961</p>



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## Board members

 <p>Ms. Lilian Mahiri Zaja Board Member</p>	<p>Ms. Lilian B. Mahiri-Zaja holds a Master of Laws Degree from the University of Reading, United Kingdom (2002); a post-graduate Diploma in Legal Education from the Kenya School of Law (1989); and an LL.B. (Hons.) Degree from the University of Nairobi, Kenya (1988).</p> <p>She was the Vice Chairperson of the Independent Electoral and Boundaries Commission (IEBC) of Kenya. She was a member of the Technical Working Group that developed a mechanism for women representation to ensure implementation of the two-third gender principle.</p> <p>Ms. Mahiri-Zaja is an Advocate of the High Court of Kenya and has served in various national and international institutions; including the Committee of Experts on Constitutional Review in 2009-2010, Presidential National Committees, Task Forces, various Commissions and the African Union Commission on International Law (AUCIL).</p> <p>Date of Birth: 8<sup>th</sup> December 1964</p>
 <p>Prof. George Achoki Board Member</p>	<p>Professor George O. Achoki has experience in Management, academia and board directorship spanning over twenty years. Professor Achoki's career life started in 1997 at Manpower Services (K) Limited where he worked as a Management Consultant. He had a one-year stint as a senior lecturer at Kenyatta University where he taught finance and accounting. He is currently an associate Professor of Accounting and Finance at United States International University (USIU) where he has taught for over 20 years.</p> <p>Professor Achoki holds a Bachelor's degree in Commerce, a Master's degree, Commerce in Accounting and Statistics and a Doctor of Philosophy in Human Resource Accounting, all from Sukhadia University, India.</p> <p>He has published in the International Journal of Economics and Finance, the American Journal of Finance, and the Journal of Business and Management among others. Between 2016-2018, he served as a Council Member at the Export Promotion Council where he Chaired the Strategy, Product Development and Promotion and the Finance and Resource Mobilization Committees.</p> <p>Date of Birth: 24<sup>th</sup> April, 1966</p>
 <p>Wanjuki Muchemi CBS, FCI, Arb Board Member</p>	<p>Mr. Muchemi is a senior legal practitioner with a wealth of experience in International Commercial Law, Arbitration, Alternative Dispute Resolution, Multilateral and Bilateral Finance negotiations. He is currently serving as a non- Executive Director in the Boards of several listed and private companies.</p> <p>Previously, Mr. Muchemi served as the Solicitor General of the Republic of Kenya and the Principal Assistant to the Attorney General. During his tenure, he was awarded the Chief of the Order of the Burning Spear (CBS) (First Class) by His Excellency, President Mwai Kibaki, for his dedicated service. In addition, he previously served as a Director in several State Corporations as well as at the Centre for Corporate Governance for 10 years.</p> <p>He holds a Master of Business Administration (MBA) degree in Strategic Management and a Bachelor of Laws (LL.B. Hons.) degree from University of Nairobi. He is an Advocate of the High Court of Kenya, Fellow of The Chartered Institute of Arbitrators, London, U.K. (FCI Arb.), Member of The Institute of Certified Public Secretaries of Kenya (CPS (K)), and The Law Society of Kenya.</p> <p>Date of Birth: 30<sup>th</sup> November 1951</p>

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## Board members

 <p>CPA. Moses Gitari Alternate to the PS, Ministry of Energy</p>	<p>CPA Moses Gitari is the Head of Accounting Unit, State Department for Energy and the Alternate Director on the EPRA Board. He holds an MBA in Strategic Management from Nairobi University and BBA in Accounting and Finance from KEMU. CPA Gitari is a practicing Accountant and a member of Institute of Certified Public Accountant of Kenya (ICPAK). He has vast experience in Accounting Systems Implementation and Business process re-engineering.</p> <p>He has previously worked in the Ministry of Health as an Accountant and at the National Treasury IFMIS Department as the Head of Business process re-engineering.</p> <p>Date of Birth: 22<sup>nd</sup> July, 1971</p>
 <p>Mr. Daniel Kiptoo Alternate to the PS, Ministry of Petroleum &amp; Mining</p>	<p>Mr. Daniel Kiptoo is the Legal Advisor in the State Department of Petroleum and is also the Chairman of the Government's First Oil Committee charged with delivery of First Oil for Kenya. The Committee brings together technical officers from different Government Ministries and agencies. Mr. Kiptoo is Kenyan qualified lawyer with experience in the Energy and Petroleum sectors with a specific focus in policy formulation, regulation and in project &amp; structured financing. He is one of the drafters of the Energy Act (2019) and Petroleum Act (2019).</p> <p>He is a Certified Public Secretary in Kenya (CPS), Chartered Secretary of the Institute of Chartered Secretaries and Administrators UK (ICSA) and is also a member of the Association of International Petroleum Negotiators (AIPN). He holds a master's degree in Petroleum Law and Policy from University of Dundee. Prior to his role as Legal Advisor in the State Department of Petroleum at the Ministry, Mr. Kiptoo worked with the Energy and Petroleum Regulatory Authority (EPRA) and in the private sector with an Africa centric Oil &amp; Gas risk consultancy as the Oil &amp; Gas and Legal Affairs Director.</p> <p>Date of Birth: 17<sup>th</sup> February, 1984</p>
 <p>Mrs. Jacqueline Mogeni (Council of Governors Representative)</p>	<p>Mrs Jacqueline Mogeni is the Chief Executive Officer of the Council of Governors. Ms. Mogeni is an advocate of the High Court of Kenya and a Human Rights Specialist. In her previous capacities, Jacqueline has worked as a member of the Transition Authority as the Chairperson of the Legal and Intergovernmental Committee. She also worked as the Gender and Advocacy Development Advisor with SNV Development Organization. She holds a Master's Degree in International Studies and a Bachelor of Law both from the University of Nairobi.</p> <p>Jacqueline is passionate about promoting women and children's rights. She is the Chairperson of the East African Women Lawyers Association and also sits as a Board Member of Senior Women Citizens for Change. She has championed for the rights of women through various published works including, Women's silent cries: Cases of Violence against women in the Printed Media (1988-2001) and the book dubbed 'A look at Child Abuse, its perpetrators and the Law (Publication of the SNV- Street Children Program). Ms. Mogeni is an active member of the International Commission of Jurists (Chapter one) and the Law Society of Kenya. She received an awarded from H.E Uhuru Kenyatta, President of the Republic of Kenya where she was honoured as Moran of the Order of the Burning Spear (MBS) for her good work in the devolution space in Kenya since 2013.</p> <p>Date of Birth: 1st May 1969</p>

# Energy & Petroleum Regulatory Authority

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## Board members



Ms. Mueni Mutunga - Board Secretary

Mueni holds a Master's in Business Administration and a Bachelor of Laws degree both from the university of Nairobi, and a diploma in legal practice from the Kenya School of Law. She is an advocate of the High Court of Kenya, a member of the Institute of Directors, the Institute of Certified Secretaries of Kenya and Chartered Institute of Arbitrators. She has also trained extensively in Good Corporate Governance

She started her career as an advocate and worked as an associate with the law firm of Robson Harris & Co advocates. She later moved to Total Kenya Ltd where she worked as a legal officer. Thereafter she worked as the Corporation Secretary and Head of Legal services at Kenya Wildlife Service prior to taking up her current appointment as the Board Secretary and Director Legal Services.

Date of Birth: 28th February, 1964



# Energy & Petroleum Regulatory Authority

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## Management Team




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 <p>Mr. Pavel Oimeke B. Tech (Chem. Eng)</p>	<p>Director, General: Board Member and Chief Executive Officer of the Authority.</p>
 <p>Dr. Frederick Nyang PhD (Economics)</p>	<p>Director, Economic Regulation: Heading the Economic Regulation function of the Authority.</p>
 <p>Ms. Mueni Mutung'a MBA, LL. B (Hons), CPS (K), Dip. Law (KSL)</p>	<p>Board Secretary &amp; Director Legal Services: Secretary to the Authority and Head of the Legal function of the Authority.</p>
 <p>Ms. Caroline Kimathi MBA, BSc. (Elec. Eng.), CEM</p>	<p>Principal Renewable Energy Officer, Performing the duties of Director, Electricity &amp; Renewable Energy; Heading the electricity &amp; renewable energy subsector regulation function of the Authority.</p>

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## Management Team

 <p>Eng. Edward Kinyua Msc (Energy Management), B.Tech (Mech. &amp; Prod. Eng)</p>	<p>Director, Petroleum &amp; Gas: Heading the downstream petroleum &amp; gas regulation function of the Authority.</p>
 <p>Mr. Cyprian Nyakundi MBA, Bcom, CPA(K)</p>	<p>Director, Enforcement &amp; Consumer Protection: Heading the Enforcement &amp; Consumer Protection function of the Authority.</p>
 <p>CPA James Kilonzo MBA, Bcom, CPA(K), CISA</p>	<p>Ag. Director, Corporate Services: Heading the Corporate Services functions of the Authority (Finance &amp; Accounts, HR &amp; Admin, Corporate Communications &amp; ICT)</p>
 <p>CPA Everlyne Orange MBA, Bcom, CPA (K)</p>	<p>Manager, Internal Audit and Risk Assurance: Heading the Internal Audit and Risk Assurance function of the Authority.</p>

# Energy & Petroleum Regulatory Authority

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## Management Team

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 <p>Ms. Loise Thuge Msc, BA MCIPS(UK), MKISM</p>	<p>Manager, Supply Chain Management: Heading the supplies and procurement functions of the Authority.</p>
 <p>Ms. Esther Njengah MBA, Msc, PGDip, HRM. MIHRM, IHRM(P),MKIM</p>	<p>Ag. Manager Corporate Strategy &amp; Performance: Heading the Corporate Strategy and Performance department of the Authority.</p>



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Chairman's Statement

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I take great honor to present to you the Authority's annual report and financial statements for the year ended 30th June 2020. The report is a reflection of the efforts made by the Authority towards achievement of the Big Four Agenda and subsequently the country's Vision 2030 in regulating and steering the energy sector towards sustainable, affordable and adequate energy services. This is attributed to the fact that energy is considered a major infrastructural enabler of the country's development agenda.

The Country's macroeconomics saw the GDP expand by 5.4% in 2019/20, compared to 6.3% in 2018/19. The energy sectors' role in the growth of the GDP cannot be gainsaid. The Government's desire to achieve universal access to power by 2022 has seen accelerated domestic connections through the last mile initiative, the street lighting programme and connection of urban slums. As a result access rate growth stands at 77.74% in 2019/20. Consequently, the Country realized the highest consumption of electricity growth with recorded peak demand of 1,926MW.

The Energy Act 2019 provides a framework for the energy sector development and coordination through the proposed 5-year National Energy Policy and the envisaged 3 year Integrated National Energy Plan (INEP). The aim is to support provision of affordable, adequate and reliable electricity services to the country necessary to steer the country towards achieving its Vision 2030 objectives. A special focus on Renewable Energy resource utilization has been given prominence with investment in geothermal power production which offers comparatively lower generation tariffs being given priority. The Petroleum Act 2019 also provides for the development of the National Petroleum Policy, a framework that guides the petroleum sub-sector owing to the successful discovery of crude oil in Turkana. The Authority's mandate in regulation of upstream petroleum and capacity building initiatives are bound to ensure successful regulation and promotion of the sector that is deemed crucial for achievement of the Big Four Agenda.

The Authority continues to spearhead the smooth functioning of the sector through the use of various regulatory instruments including licensing, Power Purchase Agreement approvals, Regulation development and enforcement, monitoring performance of sector utilities, Energy sector pricing as well as complaints resolutions. Each of these processes are being improved by ensuring that less time is taken to process any legal instrument issued by the Authority. Among critical activities this year, the Authority continued to monitor the implementation of Time of Use (TOU) tariff for large commercial and industrial consumers. In addition, the Authority also developed special tariffs for Special Economic Zones (SEZ) and Export Processing Zones (EPZ) metered at 220kV, all this with the aim of supporting the manufacturing agenda of the Big Four Agenda.

The Country has in the recent past experienced increased interest by developers in the development of Liquefied Petroleum Gas (LPG) infrastructure. This has been buoyed by a growth in LPG consumption as more Kenyans enter the middle class and abandon traditional biomass cooking fuels. On this account, the Authority is encouraging the shift to LPG through fiscal and regulatory incentives. That aside, the Authority continues to intensify the quality of petroleum fuels used in the country through a national marking and monitoring program and a revamped Enforcement, Compliance and Consumer Protection team with offices across the country. This will ensure that consumers are protected from adulterated fuels, malpractices in electricity consumption as well as quality control of petroleum dispensing facilities. The efforts also protect the Country's tax revenue by preventing dumping of tax exempt export bound petroleum products into the local market.

# Energy & Petroleum Regulatory Authority

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## Chairman's Statement

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With regard to the Energy Sector Plans, the Authority completed the coordination of the transitional Least Cost Power Development Plan 2019 -2039, that will be an input into the Integrated National Energy Plan (INEP). The plan provides a framework for the sectors' development in terms of forecasted demand based on major demand drivers and projected supply in terms of committed projects in the electricity subsectors. Energy being considered an enabler of economic growth through its multidimensional linkages with all the other sectors of the economy, strategies that guide investments and growth in the sector are of utmost importance to the Authority and the entire nation.

Finally, the Authority appreciates the support it has received from both the national and county governments, the energy sector players and from all Kenyans in general. I also take this opportunity to commend the Authority's staff, Management and my fellow Directors of the Board for the conclusion of yet another successful year and for executing our mandate with vigor, passion and distinction in our quest to meet or exceed our stakeholders' expectations.



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Hon. Justice (Prof) Jackton B. Ojwang  
Chairman

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Report Of The Director General

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As we conclude the 2019/20 financial year, I take this opportunity to appreciate the concerted efforts made in improving delivery of services to the public from all relevant stakeholders in the energy sector. The multi-agency approach to planning and enforcement of regulations and guidelines within the sector has seen the Authority continue to achieve unprecedented levels of compliance to statutory requirements among regulated entities.

In accordance with Part 2 section 4-8 of the Energy Act of 2019, the Cabinet Secretary, in coordination with other stakeholders is mandated to develop an Integrated National Energy Plan (INEP) in respect of coal, renewable energy and electricity so as to ensure delivery of reliable energy services at least cost. Prior to the enactment of the Energy Act 2019, the then Energy Regulatory Commission (ERC) coordinated energy planning in the country on behalf of the Ministries responsible for Energy and Petroleum as provided for by the repealed Energy Act 2006. During the year 2019/20, the Authority coordinated preparation of the transitional Least Cost Power Development Plan 2019-2039, which will be an input to the Integrated Nation.

At sector performance level, the energy sector performed well during the first half of the year which saw electricity demand rise to 1,926MW in February 2020. However, since the first case of COVID-19 was recorded in the country in March 2020, the economy has plummeted, and the electricity demand shrunk significantly. In the power subsector, the level of electricity access increased from 75.2% in FY 2018/19 to 77.74% with a total number of 7, 576,145 total customers connected as at May 2020. Due to the global pandemic COVID-19, the sector under performed during the fourth quarter of FY 2019/20. Electricity sales reduced from 8,825 GWh in the 2018/19 to 8,746GWh in FY 2019/20 a decrease of 0.9%.

On electricity demand, the interconnected system in Kenya has a total installed generation capacity of 2,763MW as at June 2020 comprising 826.23 MW of hydroelectric power generators, 828.44MW of geothermal, 720.32MW of thermal, 335.50 MW of wind, 50.25MW of solar, and 2MW from Biomass power generators. In addition, there is also 28.46MW from isolated mini-grids bringing the total installed capacity to 2,791MW.

During the FY 2019/20, the Authority facilitated the commissioning of KENGEN's 158MW Olkaria V geothermal plant. The year also saw decommissioning of 56MW Iberafrica thermal plant in August 2019 hence significantly reducing thermal generation as a move towards embracing renewable energy. Additionally, the country has heavily invested in wind and solar technologies. It is expected that approximately 270MW of both technologies will be installed by 2021. These additional plants will not only increase the country's national installed capacity, but have also reduced reliance of thermal plants during periods of low hydrology. This will have a positive impact on the cost of electricity due to a reduced fuel cost charge and low generation tariffs associated with the use of renewable energy in generation.

The Authority has continued its commitment to reviewing Power Purchase Agreements (PPA's) within 60 days of receipt of materially complete applications, in accordance with the Energy Act 2019, a significant reduction from the statutory 90 days stipulated in the Energy Act 2006. During the financial year, a total of 17 such applications were received, reviewed and determined. This application provided an additional contracted capacity of 515MW to the system.

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



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Report Of The Director General

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In the Petroleum sub-sector, for the period ending June 2020, the consumption for Illuminating Kerosene, Premium Motor Spirit, and Automotive Gas Oil was 162,218.74 M<sup>3</sup>, 1,866,203.45 M<sup>3</sup> and 2,450,608.01 M<sup>3</sup> respectively. By June 2020, the Authority had issued a total of 14,976 Petroleum Business Licenses. In addition, the Authority continues to set maximum retail prices for three critical products namely Diesel, Premium Motor Spirit and Illuminating Kerosene.

The Authority additionally sets wholesale prices for the main supply depots in Kenya as stipulated in Energy Act 2019. The key determinants of pricing include, importation costs on international oil prices as per Platts, average bank exchange rates, taxes and levies, premiums, storage costs, pipeline tariff costs and transportation costs. This exercise has been efficiently and prudently executed on the 14th Day of every month without fail and with stakeholder participation in the whole pricing process.

In the year under review, the Authority collected KES. 1.05 billion from the petroleum levy compared to KES. 1.06 billion the previous year, a decrease of 0.9%. This is attributed to effects of Covid 19. On the other hand, the electricity levy reduced by 24.2% from KES. 347 million in 2018/2019 to KES. 263 million in 2019/2020. There were no Government transfers during the period. In total, non-exchange revenue went down by 9% from KES.1.44 billion in 2018/19 to KES. 1.31 billion in 2019/20. The total recurrent expenditure increased by 18.3% from KES. 1.09 billion in 2018/19 to KES. 1.29 billion in 2019/2020.

The Authority's total asset base decreased by 42.5% from KES. 769.1 million in the previous period to KES.443 million in 2019/20. Non-current assets increased by 77.1% to KES. 233 million from KES. 131.6 million. Current assets went down by 67.1% to KES. 209.6 million from KES.637.5 million this is attributed to a cash payment of KES 460 million to the National Treasury. Current liabilities decreased by 41.1% to KES 291.3 million down from KES.494.5 million in the 2018/19 financial year. Further, total equity decreased by 44.8% from KES 274.5 million to KES 151.4 million in 2019/2020.



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Mr. Daniel Kiptoo Bargoria  
Director General



# Energy & Petroleum Regulatory Authority

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## Review of EPRA's performance for 2019/2020

<p>Pillar 2- Service Delivery</p>	<p>To provide efficient service delivery to the energy sector</p>	<ul style="list-style-type: none"> <li>•Number of licenses/permits issued</li> <li>•Turn-around time for processing licenses/permits</li> <li>•Report on outcome of inspections undertaken (compliant vs non-compliant)</li> </ul>	<ul style="list-style-type: none"> <li>•Process applications for Petroleum Business Licenses, Energy Auditors, Solar PV technicians, Energy Audit Firms, Solar PV contractors, electrical worker, electrical contractors and Power Purchase Agreements</li> <li>•Undertake inspections of petroleum, LPG, Renewable Energy and Electricity facilities, to enforce compliance with Energy Act 2019 and Petroleum Act 2019</li> </ul>	<ul style="list-style-type: none"> <li>•1,351 Petroleum Business Licenses were issued within 9.1 days</li> <li>•7 Energy Auditors and 60 Solar PV technicians were licensed within 52 days.</li> <li>•2 Energy Audit Firms and 135 Solar PV contractors were licenced within 20 days.</li> <li>•237 electrical worker licences were issued within 54 days</li> <li>•18 Power Purchase Agreements (PPAs) Applications were approved within 50 days</li> <li>•19,911 tests were conducted at 4,164 petroleum sites. From the tests, 99.66% of the sites were found to be compliant.</li> </ul>
<p>Pillar 3-Stakeholder Focus</p>	<p>To be responsive to the energy stakeholder needs</p>	<ul style="list-style-type: none"> <li>•Customer satisfaction level</li> <li>•Number of stakeholder sensitization forums on energy related issues</li> <li>•Number of accidents/ incidents investigated</li> </ul>	<ul style="list-style-type: none"> <li>•Undertake a customer satisfaction survey</li> <li>•Organize public awareness/ sensitization forums</li> <li>•Investigate petroleum and gas and electricity related accidents</li> </ul>	<ul style="list-style-type: none"> <li>•Customer satisfaction survey was undertaken where the overall satisfaction index was established at 3.27 out of 5 on a Five-Point Likert scale</li> <li>•15 stakeholder forums covering 41 counties were undertaken</li> <li>•20 petroleum related accidents and 47 fatal electricity related accidents were reported and all were investigated within 60 days.</li> </ul>



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Review of EPRA's performance for 2019/2020

<p><b>Pillar 4-Institutional Capability</b></p>	<p>To strengthen EPRA's institutional capability</p>	<ul style="list-style-type: none"> <li>•Compliance with the Quality Management System</li> <li>•Service delivery innovations</li> <li>•Competency development initiatives</li> </ul>	<ul style="list-style-type: none"> <li>•Maintain the Quality Management System</li> <li>•Review the Strategic Plan in line with the Energy Act 2019 and Petroleum Act 2019</li> <li>•Develop and implement a Business Continuity Plan</li> <li>•Undertake capacity building/ training to address the employee training needs</li> <li>•Develop and roll out a CRM system</li> <li>•Implement performance management for employees</li> </ul>	<ul style="list-style-type: none"> <li>•EPRA was recertified against the ISO 9001:2015 Standard.</li> <li>•A new Strategic Plan 2020/2021–2022/2023 was developed in line with the Energy Act 2019 and Petroleum Act 2019</li> <li>•A Business Continuity Plan and Disaster Recovery Plan was developed and implemented.</li> <li>•A Customer Relationship Management (CRM) system was developed and implemented.</li> <li>•A total of 80 employees attended various classroom competency development programmes while 18 employees pursued various online courses</li> <li>•All employees were placed on the Performance Appraisal System (PAS)</li> </ul>
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# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Corporate Governance Statement

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### 1. Introduction

The Board of Directors acknowledge the need to conduct the business and operations of the Authority with integrity and in accordance with generally accepted corporate practice and internationally developed principles of corporate governance. The Board recognize corporate governance as an essential element towards achieving the Authority's regulatory mandate provided in both the Energy Act, 2019 and Petroleum Act, 2019. The Board members adhere to good corporate governance by embracing the following principles:

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

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

### 2. Board members

#### 2.1 Board Composition, Appointment and Size

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

The Board is well composed in terms of diversity in skills, knowledge of business and administrative experience acquired from both private and public sectors that is essential in the effective management of the Authority's operations.

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

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Corporate Governance Statement

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

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

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

### 2.3. Board Responsibilities

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

### 2.4. Board and Committee Meetings

The Energy Act 2019 provides that Board meetings will be held at least four times a year, and not more than four months shall lapse between the date of one meeting and the next meeting. A schedule of dates of the meetings is agreed upon by Board members and set out in the Board Work Plan. Notices of the location and the timing of meetings are issued seven days prior to the meetings. The Work Plan is adjusted when deemed necessary by the Board.

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

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

### 2.5. Finance and Administration Committee

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

### 2.6. Technical Committee

The Technical Committee's responsibilities are to provide technical and strategic direction to the Authority and approve technical plans, activities, reports and budgets. During the year the Committee members were Dr. Sellah Kebenei (Chair), Prof. George Achoki, Eng. Samuel Maugo, Mr. Moses Gitari, Ms. Jacqueline Mogeni and Mr. Robert Pavel Oimeke.

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Corporate Governance Statement

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### 2.7. Audit and Risk Committee

The responsibilities of the Audit and Risk Committee are to; review the financial information of the Authority, monitor the effectiveness of management information and internal control systems, deliberate on significant findings arising from both internal and external audits, and reviewing the overall risks facing the Authority. During the year the Committee members were; Prof. George Achoki (Chair), Mr. Daniel Kiptoo, Mr. Moses Gitari and Ms. Lucy Mugwe.

### 2.8. Board Charter and Work Plan

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

### 2.9. Directors Induction and Skills Development

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

### 2.10. Board Effectiveness and Evaluation

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

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

The Evaluation is undertaken at three levels:

- Peer Review
- Self-evaluation
- Board evaluation

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



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Corporate Governance Statement

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### 2.11. Remuneration of the Board of Directors

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

### 2.12. Ethical Leadership and Corporate Citizenship

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

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

### 2.13. Succession Plan

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

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Corporate Governance Statement

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### 2.14. Compliance with the Law

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

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

**i) The High Court of Kenya Petition No. 6 of 2018: Apollo Mboya and Electricity Consumers Society of Kenya vs ERC and 6 others**

This matter was instituted by the Petitioners and is based on erroneous billing of consumers and the alleged unprocedural application of Fuel Cost Charges. The other parties enjoined in the matter include; Electricity Consumers Society of Kenya, Kenya Power and Lighting Company Limited, Attorney General and the Auditor General. The matter is awaiting ruling in Court.

**ii) The High Court of Kenya Petition no. 59 of 2018: Apollo Mboya and Electricity Consumers Society of Kenya vs ERC and 6 others.**

This matter was instituted by the Petitioners and matter is based on erroneous consumer billing and alleged irregular payments to Independent Power Producers. The Petitioners sought a number of orders including an order declaring all generation licences to be null and void for contravening the Public Procurement and Asset Disposal Act. The other parties enjoined in the matter include; the Cabinet Secretary of the National Treasury, Ministry of Energy, Central Bank of Kenya, Kenya Power and Lighting Company Limited, Kenya Electricity Transmission Company Limited and the Attorney General. The matter is awaiting a mention date in Court.

**iii) The High Court of Kenya Petition No. 279 of 2017: Council of County Governors –vs- ERC and 7 Others.**

This matter was instituted by the Petitioners challenging the constitutionality of the functions and mandate of ERC as was provided for by the Energy Act 2006. The Petitioners sought to have some of the mandate vested on the Authority transferred to Counties. The other parties enjoined in the matter include; Rural Electrification Authority, National Transport and Safety Authority, Kenya Urban Roads Authority, Kenya Rural Roads Authority, Kenya Ferry Services and Kenya Roads Board. The CCG alleges that the statutory laws establishing these government entities are unconstitutional. The matter is awaiting a hearing date in court.

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Corporate Governance Statement

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

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

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

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

### **vi) Thika Criminal case No.1799 Of 2016: Republic Vs Ismail Mohammed and; Thika Criminal case No.1800 Of 2016: Republic V Hussein Magumba.**

The accused were initially charged separately for discharging of LPG to an illegal LPG plant. On 25th November, 2019, the Prosecutor applied to withdraw the matter. Application was allowed and accused were discharged. On 27th February, 2020, the accused persons moved to court, citing EPRA for contempt on grounds that EPRA had allegedly refused to release the gas to the accused. The matter is awaiting a mention date.

### **vii) Thika Criminal case No. 2752 of 2016: Republic v Charles Watatua Kaburu & Lydia Wambui Kibebe**

This is a criminal case where the accused persons were found illegally operating a petroleum storage business and construction of an illegal plant that resulted to an explosion at the facility. The matter is awaiting a judgement date.

### **viii) Criminal Case No.4179 of 2020: R vs Charles Njeru**

This matter relates to an enforcement activity carried out by EPRA and DCI following a public complaint received based on illegal petroleum operations. The criminal matter is still ongoing. Awaiting a hearing date.

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

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

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

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

### **xi) Machakos Judicial Review No. 21 of 2020- Republic vs. EPRA and 2 others (The Applicants are: Talib Zein & Musa Ali of Swift Energy Distributors Ltd).**

Following an enforcement activity that was carried out in November, 2019 at the Applicants' LPG filling and storage facility, the Applicants and 2 other persons were charged with offences under the Petroleum Act and a criminal case was instituted against them being Mavoko Criminal case no. 995 of 2019. The Applicants were

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Corporate Governance Statement

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aggrieved by the decision to have them charged with criminal offences and therefore filed the present Judicial Review (JR) suit challenging that decision and seeking stay of the criminal proceedings pending hearing and determination of their JR suit. The matter is awaiting a mention date in court for directions.

**xii) High Court Constitutional Petition No. 28 of 2020- Evanson Gitau Kinuthia Vs EPRA**

The Petitioner, filed this suit seeking orders for the release of his motor vehicle that was being held by EPRA as well as an award of damages. The matter is awaiting a mention date in court.

**xiii) High Court Constitutional Petition No.136 of 2020: Mary Gathoni Mungai & Another V The AG, DCI, DPP, EPRA and another.**

The suit relates to a joint enforcement activity at the Petitioner's premises in Kikuyu for allegedly unauthorized refilling of LPG in Cylinders. The Petitioner being aggrieved by the decision to have the motor vehicles and consignment held at the DCI Headquarters, filed the present suit seeking inter alia the release of the motor vehicles and consignment and orders barring his arrest and prosecution. The matter is awaiting a mention date in court.

**xiv) Misc. Criminal Application No. 55 of 2020: Simon Karuru Muoria V The IG, DCI, DPP and EPRA**

This case relates to an enforcement activity on 16th July, 2019 where EPRA officers conducted a random inspection of Orbit filling station situated in Githunguri, Kiambu County. This was occasioned by a request from the DCI that the subject station was selling petroleum suspected to have been from an illegal siphoning of the Kenya Pipeline Company's Product pipe at Mlolongo. The accused person, i.e. Joseph Irungu, was running three (3) retail stations in Kibicho, Kiambu town and Ruiru hence the suspicion that the products were sold via his stations. EPRA were invited by DCI after the arrest of the suspect, sealing of the retail stations by the Kenya Pipeline Company's surveillance team and guarding of the sites by the DCI officers. In this application therefore, Simon Karuru Muoria alleges that he sublet the premises hosting the filling to Joseph Irungu (the accused in the criminal case) and therefore prays that, the DCI, Githunguri sub-county, be ordered to release the premises hosting the filling station. The matter is thus awaiting a ruling in court.

**xv) Nairobi High Court Constitutional Petition No. 186 of 2020- Vincent Nyamweya Morwabe Vs Epra.**

This suit relates to an enforcement activity at an illegal LPG site in Embakasi in March 2020. The Petitioners Motor vehicle and its 314 cylinders were confiscated and transported to the EPRA yard for allegedly unauthorized refilling of LPG cylinders as well as transport of LPG in cylinders without a license. The Petitioners, being aggrieved by the decision to have the motor vehicles and consignment held, has filed the present suit seeking inter alia the release of the motor vehicles and its constituent consignment as well as an award of damages thereto. The matter is awaiting a mention date in court.

**xvi) Milimani Civil Suit 2329 of 2020- Joseph Karanja Nganga Vs EPRA.**

The Plaintiff instituted this suit seeking an order of mandatory injunction compelling the Defendant (EPRA) to release Petroleum Tanker Registration no. KAS 231B, general damages and costs. The matter is awaiting a hearing date in court.



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Corporate Governance Statement

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### 2.15. Delegation of Responsibilities

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

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

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

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

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

### 2.17. Responsibility

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

### 2.18. Internal Controls

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

# Energy & Petroleum Regulatory Authority

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## Corporate Governance Statement

### 3. Number of scheduled meetings and attendance

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

#### 3.1 Number of scheduled meetings and attendance

Board of Directors	Designation	Board Meeting Total No. of Meetings (11)	Finance & Administration Committee - Total No. of Meetings (13)	Technical Committee - Total No. of Meetings (9)	Audit & Risk Committee - Total No. of Meetings (8)	Pension Board Meetings (1)
Mr Joshua Oigara	Former Board Chairman	7/11				
Hon. Justice Jackton Ojwang	Board Chairman	3/11				
Eng. Samuel Maugo	Member	11/11	12/13	8/9		
Dr. Sellah Kebenei	Member	11/11	7/13	9/9		
Ms. Lilian Mahiri-Zaja	Member	7/11	10/13			1/1
Prof. George Achoki	Member	11/11	1/13	9/9	8/8	
Mr. Moses Gitari	Member	6/11	4/13	3/9	2/8	
Lucy Mugwe	Member				4/8	
Mr. Daniel Kiptoo	Member	2/11		3/9	5/8	
Mr. Pavel Robert Oimeke	Director General	10/11	10/13	8/9	1/8	1/1

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Management discussion and Analysis

### SECTION A: OPERATIONAL AND FINANCIAL PERFORMANCE

According to the , global energy consumption is expected to increase by almost 50% by 2050. Renewable energy (including wind, solar, and hydropower) is projected to be the world's fastest-growing form of energy over the next several decades (growing at a rate of over 3.1% per year). In 2020, the International Energy Agency (IEA) estimates that primary energy demand could decline for oil (-9%), coal (-8%), natural gas (-5%), and nuclear (-2%), while renewables would grow by 1%. Due to the decline in demand for oil, The IEA estimates that emissions could fall by roughly 8% this year, returning to their 2010 levels.

In Kenya, the interconnected system has a total installed generation capacity of 2,791MW as at June 2020 comprising 826.23 MW of hydroelectric power generators, 828.44MW of geothermal, 720.32 MW of thermal, 335.50 MW of wind, 50.25MW of solar, and 2MW from Biomass power generators. In addition, there is 28.46MW from isolated mini-grids bringing the total installed capacity to 2,791MW. This was against maximum demands of 1765.12MW, 1801.52MW and 1835.27MW in the Months of April, May and June respectively. The peak demand remains at 1,926MW recorded in February 2020. The contribution of each technology to the interconnected system is illustrated below.

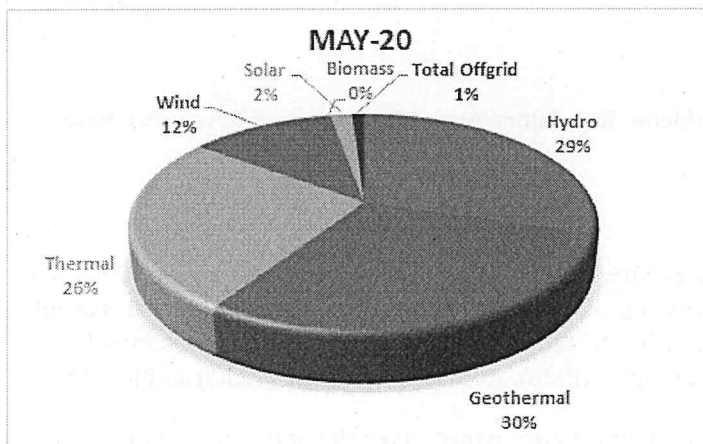


Figure 1: Contribution of each technology to the interconnected system

### Energy Planning

During the financial year 2019/2020, the Energy and Petroleum Regulatory Authority prepared the transitional Least Cost Power Development 2019-2039 as envisaged in Part II section 5(1) of the Energy Act 2019. The LCPDP will feed into the Integrated National Energy Master Plan as outlined in the Energy Act 2019. During the quarter under review, EPRA finalized on the report of the LCPDP technical team which incorporated demand forecasting, generation expansion planning, transmission planning and tariff evolution forecasting under the electricity subsector. The LCPDP awaits to be tabled to the Technical Committee of the Board.

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Management discussion and Analysis

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From the simulations, the demand-supply balance revealed excess capacity for the period of planning as illustrated in Table 1. Results obtained under the reference forecast scenario shown in table 1 show total interconnected capacity grows from the current 2,694MW in 2019 to 10,015MW in 2039. There is high surplus in the system with capacity levels above the sum of peak load and reserve margin over the period 2021-2033., with a high of 1725MW in 2027. The high excess capacity in 2027 is attributed to addition of 981MW Lamu coal generation in year 2027 to the system resulting in huge surpluses over and above peak and reserve requirements. The average annual excess energy as share of generation in the period 2019-2029 is 24%, but reduces thereafter to an average of 9%. Consequently, the Levelised Electricity Cost (LEC) within the period rise from US\$ cents 8.59/kWh in 2019 to US\$cents17.49/kWh in 2027, before decreasing to an average of US Cents 12.64 /KWh in the period 2028-2039. The simulations also indicated that progressive addition of intermittent capacity (solar and wind) in the planning period necessitates the selection of High Grand falls hydro plant, Dongo Kundu CCGT and Back up diesel generation for system support.

### Energy Pricing

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

#### *Bulk Electricity Tariffs/Prices*

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

#### *Petroleum Pump Prices*

According to Part III section 11 (b) of the Energy Act 2019, the Energy & Petroleum Regulatory Authority has the powers set, review and approve contracts, tariffs and charges for common user petroleum logistics facilities and petroleum products. On this account, the Authority, on 14th of every month publishes prices for selected petroleum products which includes Premium Motor Spirit (PMS), Automotive Gas Oil (AGO) and Jet- A1.

Oil remains an important determinant of Kenya's economic performance, given that it is a net importer of oil and its derivative products. Kenya is reliant on international oil prices that serve as a benchmark for domestic oil prices.

As of June 30<sup>th</sup>, the OPEC basket stood at 38.22 U.S. dollars per barrel, compared to 41.27 U.S. dollars for Brent oil and 39.27 U.S. dollars for WTI oil. The global impact of the COVID-19 health crisis on the global energy sector has accelerated the volatility of oil prices and demand. Additionally, COVID 19 created an adverse shock to some of the key macroeconomic factors such as foreign exchange rate, which continued to depreciate in the fourth quarter. These adverse effects will continue to have a ripple effect on electricity and petroleum pump prices and other complementary services.



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Corporate Social Responsibility Statement

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

During the Financial Year 2019/20, the Authority undertook the following CSR activities:

### Health

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

The Authority responded to the appeal by donating Kshs. 10 Million to the Fund. The donation was used to support the government's efforts in the supply of medical facilities and equipment and support for vulnerable communities. The Authority equally set aside Ksh 5.5 Million towards testing of staff and other vulnerable outsourced service providers, purchase of facemasks and hand sanitizers for staff and visitors to EPRA offices.

The Authority sponsored the activities of the Nyeri Hospice which offers homebased and outpatient palliative care services to patients with life limiting diseases such as Cancer and HIV/AIDS. The donation of Kshs. 0.5 Million contributed in meeting the hospice financial obligations at a critical time when donors had reduced their funding due to the tough economic times posed by the pandemic.

### Environmental conservation

The Authority is keen on undertaking activities that promote environmental stewardship. Consequently, the Authority continues to call on individuals and business owners to be environmentally conscious through social media platforms.

Additionally, in fulfillment of the Presidential Directive to dedicate 10% of the CSR budget towards tree planting activities, the Authority replaced trees that had dried up in the EPRA adopted area of the Menengai forest in Nakuru County.

### Promoting energy efficiency

The Authority was a key sponsor of the Energy Management Awards 2020 to the tune of Kshs 2 Million. The Award ceremony was set to take place in April 2019. However, the awards were postponed after restrictions on social gatherings were put in place to contain the Covid-19 pandemic. The awards, organized by the Kenya Association of Manufacturers (KAM) aim at recognizing companies that have achieved significant reductions in energy consumption through energy efficiency and conservation measures.

### Service to Communities

The heavy rainfall experienced in December 2019 caused landslide and floods in West Pokot County which claimed more than 50 lives and left over 400 people displaced.

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Corporate Social Responsibility Statement

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To help alleviate the suffering of the flood victims, the Authority contributed Kshs. 1 Million towards a disaster relief drive organized by energy sector players. The money raised through the relief drive was used to purchase basic needs items for victims such as food and beddings.

### Education

The Authority understands and appreciates the important role education plays towards bridging students to their future and achieving the goals set out in Vision 2030. Consequently, the Authority funded the construction of a classroom at a cost of Kshs 1.02 Million at in St. Mary's Girls Secondary School in Nakuru County. This project is aimed at supporting learning and promoting the quality of education in the school.

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Report Of The Board Of Directors

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The Board of directors submit their report together with the audited financial statements for the year ended June 30, 2020, which show the state of the Authority's affairs.

### 1. Principal activities

The principal activities of the Authority are: -

#### a) To regulate: -

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

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

### 2. Results

The results of the Authority for the year ended June 30, 2020 are set out from page 38 .

### 3. Board Members

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

### 4. Dividends/Surplus remission

In accordance with section 219(2) of the Public Financial Management Act regulations, regulatory entities shall remit into the consolidated fund, ninety per centum of its surplus funds reported in the audited financial statement after the end of each financial year. Energy & Petroleum Regulatory Authority had a minor surplus of KES 16,417,244, hence will remit KES 14,776,519 to the National Treasury.

### 5. Auditors

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

# Energy & Petroleum Regulatory Authority

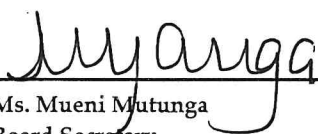
Annual Report And Financial Statements for the year ended 30 June 2020

## Report Of The Board Of Directors

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The annual Reports and Financial Statements set out on pages 38-68 which have been prepared on the going concern basis, were approved by the Board on .....09/11/21.....and were signed on its behalf by:

By Order of the Board

  
\_\_\_\_\_

Ms. Mueni Mutunga  
Board Secretary



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Statement Of Directors Responsibilities

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

The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of the state of affairs of the Authority for and as at the end of the financial year ended on June 30, 2020. This responsibility includes:


- (i) Maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period;
- (ii) Maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Authority;
- (iii) Designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud;
- (iv) Safeguarding the assets of the Authority;
- (v) Selecting and applying appropriate accounting policies; and
- (vi) Making accounting estimates that are reasonable in the circumstances.

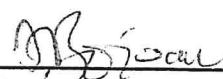
Section 81 of the Public Finance Management (PFM) Act, 2012, section 8 (3) of the Second Schedule of the Energy Act 2019 and section 14 of the State Corporations Act, require the Directors to prepare financial statements in respect of the Authority, which give a true and fair view of the state of affairs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

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

Approval of financial statements.

The annual report and financial statements set out on pages 38-68, which have been prepared on the going concern basis, were approved by the directors on 09/06/21 and were signed on its behalf by:

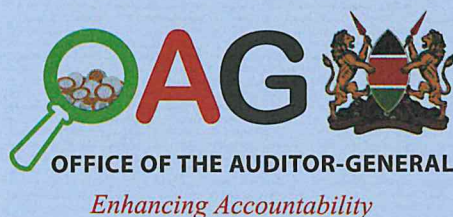
  
\_\_\_\_\_  
Mr. Daniel Kiptoo Bargarora  
Director General

  
\_\_\_\_\_  
Hon. (Prof) Jackton Boma Ojwang  
Chairman



# REPUBLIC OF KENYA

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P.O. Box 30084-00100  
NAIROBI

## **REPORT OF THE AUDITOR-GENERAL ON ENERGY AND PETROLEUM REGULATORY AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2020**

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### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Opinion**

I have audited the accompanying financial statements of Energy and Petroleum Regulatory Authority set out on pages 38 to 69, which comprise the statement of financial position as at 30 June, 2020, and the statement of financial performance, statement of changes in net assets, statement of cash flows, statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Energy and Petroleum Regulatory Authority as at 30 June, 2020, and of its financial performance and cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Energy Act, 2019 and the Public Finance Management Act, 2012.

#### **Basis for Opinion**

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Energy and Petroleum Regulatory Authority Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audit of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

#### **Key Audit Matters**

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



# REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

## **Conclusion**

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

## **Basis for Conclusion**

### **1. Compliance with Executive Order on Procurement**

Executive Order No.2 of 2018 requires all public entities to publish all tenders processed by the respective entities through the Public Procurement Regulatory Authority website, and the Public Procurement Regulatory platforms. Further, Executive Order No.6 of 2016 requires all public entities to migrate their procurement processes to E-Procurement. However, the Authority did not publish tenders processed during the year under review in the Public Procurement Information Portal. In addition, the Authority is yet to migrate its procurement processes to the E-procurement platform and all procurements were processed manually during the year under review. This is contrary to the provisions of the Executive Orders issued by the Government on public procurement.

### **2. Withholding of Rental Income Tax**

The Authority paid gross rent to its landlord without withholding tax at the rate of 10% of gross rent paid, as provided for under Section 35(3)(a) of the Income Tax Act. Further, the deductible taxes were not remitted to the Kenya Revenue Authority (KRA) by the twentieth day of the month following the month in which the deduction was made as provided for under Section 35(5) of the Income Tax Act. During the year under review, the taxes not withheld for remission to KRA, in relation to two (2) payments, amounted to Kshs.1,068,160.

Consequently, the Authority was in breach of the law.

### **3. Overpayment on Account of Rent Review**

The Authority paid an amount of Kshs.2,159,522 to a valuer appointed to review the current rent being paid by the Authority to its landlord, by making reference to the Fourth Schedule to the Lease Agreement between the Authority and its Landlord. According to the apportionment set out in the agreement, the Authority was to pay Kshs.1,079,761 and the landlord was to pay an equivalent amount, to the valuer. However, the Authority paid the total valuation fees of Kshs.2,159,522, contrary to provisions of Section 1.10 of the Fourth Schedule to the Lease Agreement which provided that the fees of the valuer should be shared equally between the landlord and the tenant.



In the circumstances, the propriety of the expenditure amounting to Kshs.2,159,522 could not be ascertained.

#### **4. Budgeting for UNEP Donor Funds**

The Authority received donor funds from United Nations Environmental Programme (UNEP) amounting to Kshs.3,695,798, for Development of Electric Mobility Policies in Kenya. However, these funds were not included in the final approved budget of the Authority, and there was no evidence that the Cabinet Secretary, The National Treasury was informed of such budgetary changes. In the absence of inclusion of the above funds in the Authority's final approved budget, it was not possible to confirm that the funds were utilized for approved and authorized purposes. This is contrary to Section 47(1) of the Public Finance Management Regulations, 2015, which requires the Accounting Officer of a state entity to immediately inform the responsible Cabinet Secretary of any circumstances which may materially affect budgetary results of the entity, either through revenue and expenditure or other receipts and payments of the entity.

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

#### **5. Provision of Liquefied Petroleum Gas Compliance Inspection Services**

The Authority signed a contract with a service provider on 28 March, 2019 for provision of Liquefied Petroleum Gas Compliance inspection services, at a contract price of Kshs.35,809,200 inclusive of taxes, for a contract period of 2 years. During the year under review, the service provider was paid an amount of Kshs.43,165,903, resulting in an overpayment of Kshs.7,356,703 above the contract price. The overpayment is expected to rise considering the nine (9) months remaining to the end of the two-year contract period.

Consequently, the Authority did not abide to the contract as per the terms set therein.

#### **6. Human Resources – Unapproved Recruitment**

During the year under review, the Authority recruited four (4) Petroleum Gas Officers, Senior Petroleum Officer, Security Officer, two (2) Renewable Energy Officers, Hotline Operator, two (2) Digital Communication Assistants and a Senior Finance Officer, without seeking and obtaining the requisite approval. This was contrary to Cabinet Memo OP/CAB.39/4A of 28 July 2017, in relation to control of expenditure, through which the Government imposed a freeze on new recruitment, unless approval was sought and obtained from The National Treasury.

Consequently, the Authority was in breach of Government directive.

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

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

## **Conclusion**

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

## **Basis for Conclusion**

### **Secondment of Staff**

An employee of The Kenya Power and Lighting Company PLC (KPLC) whose designation was Debt Controller (III), was seconded to the Authority. According to Management, the employee was seconded to the Authority to eliminate possibility of conflict of interest at KPLC. However, according to Section 10 of the Energy Act, 2019, the Authority's mandate is Economic and Technical Regulation of the electric power. Therefore, there was conflict of interest for the seconded employee as the Authority is the Regulator of KPLC.

Further, the employee's duties at KPLC were different from duties assigned at the Authority. In addition, the employee was to be retained in the payroll of KPLC during the period of secondment, and the Authority was to refund to KPLC the remuneration made to the employee, on a quarterly basis. However, the Authority did not make any refunds to KPLC and there was no provision for the same making it difficult to confirm how the amount was being accounted for.

In the circumstances, there was no clear justification for the above employee secondment to the Authority.

The audit was conducted in accordance to ISSAI 2315 and 2330. The standards require that I plan and perform the audit to obtain assurance on whether effective processes and systems of internal control, risk management and governance, were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

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

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

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

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

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

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

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

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

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

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control which might be material weaknesses under the ISSAIs. A material weakness is a condition in



which the design or operation of one or more of the internal control components does not reduce to a relatively low level, the risk that misstatements caused by error or fraud in amounts which would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

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

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

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

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



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

  
Nancy Gathungu  
AUDITOR-GENERAL

Nairobi

01 November, 2021



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Statement of Financial Performance

Figures in Kenyan Shilling	Note(s)	2020	2019
<b>Revenue</b>			
<b>Revenue from non-exchange transactions</b>			
<b>Transfer revenue</b>			
Transfers from government	6	-	34,874,087
Electricity levy	7	263,003,453	347,272,642
Petroleum levy	8	1,046,308,204	1,060,760,528
<b>Total revenue from non-exchange transactions</b>		<b>1,309,311,657</b>	<b>1,442,907,257</b>
<b>Revenue from exchange transactions</b>			
Other income	9	65,241,029	5,461,777
Interest received - investment	10	10,206,607	17,141,892
<b>Total revenue from exchange transactions</b>		<b>75,447,636</b>	<b>22,603,669</b>
		75,447,636	22,603,669
		1,309,311,657	1,442,907,257
<b>Total revenue</b>		<b>1,384,759,293</b>	<b>1,465,510,926</b>
<b>Expenses</b>			
Board Expenses	11	(19,373,137)	(23,096,598)
Employee costs	12	(639,718,242)	(550,047,228)
Transport & Travel	13	(85,923,390)	(81,249,671)
Public relation and consumer services	14	(145,104,590)	(92,167,732)
Utilities	15	(8,553,063)	(6,549,730)
Information and communication technology	16	(15,425,550)	(18,790,299)
Office Rent & Other Services	17	(66,761,424)	(54,909,757)
Consultancy and other professional services	18	(148,910,758)	(137,055,166)
HIV/AIDS Prevention	19	(4,671,810)	(1,774,117)
Depreciation and amortisation expense	20	(46,440,383)	(45,782,686)
KEEP	21	(2,000,000)	(2,000,000)
Office Supplies and Other Expenses	22	(20,785,847)	(17,463,022)
Transfer to Staff Mortgage and Car Loan Scheme	23	(90,000,000)	(61,139,060)
<b>Total expenses</b>		<b>(1,293,668,194)</b>	<b>(1,092,025,066)</b>
<b>Other gains (losses)</b>			
Gain on disposal of assets and liabilities	24	-	750,509
Surplus before taxation		91,091,099	374,236,369
Taxation		-	-
<b>Surplus for the year from continuing operations</b>		<b>91,091,099</b>	<b>374,236,369</b>
Remission to National Treasury	25	-	(260,550,327)
<b>Surplus for the year</b>		<b>91,091,099</b>	<b>113,686,042</b>

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Statement of Financial Position as at 30 June 2020

Figures in Kenyan Shilling	Note(s)	2020	2019
<b>Assets</b>			
<b>Current Assets</b>			
Cash and cash equivalents	26	65,639,846	496,564,772
Receivables from exchange transactions	27	34,105,136	13,275,698
Receivables from non-exchange transactions	28	106,448,154	124,146,135
Inventories	29	3,425,225	3,463,715
		<b>209,618,361</b>	<b>637,450,320</b>
<b>Non-Current Assets</b>			
Property, plant and equipment	30	215,507,859	116,985,057
Intangible assets	31	17,500,828	14,596,925
		<b>233,008,687</b>	<b>131,581,982</b>
Non-Current Assets		233,008,687	131,581,982
Current Assets		209,618,361	637,450,320
Non-current assets held for sale (and) (assets of disposal groups)		-	-
<b>Total Assets</b>		<b>442,627,048</b>	<b>769,032,302</b>
<b>Liabilities</b>			
<b>Current Liabilities</b>			
Payables under exchange transactions	32	207,721,026	190,424,115
Provisions	33	15,599,599	273,465,764
Employee benefits	34	51,239,152	30,647,459
		<b>274,559,777</b>	<b>494,537,338</b>
Non-Current Liabilities		-	-
Current Liabilities		274,559,777	494,537,338
Liabilities of disposal groups		-	-
<b>Total Liabilities</b>		<b>274,559,777</b>	<b>494,537,338</b>
Assets		442,627,048	769,032,302
Liabilities		(274,559,777)	(494,537,338)
Reserves			
Capital replacement reserve		55,000,000	55,000,000
Accumulated surplus		113,067,271	219,494,964
<b>Total Net Assets/Equity</b>		<b>168,067,271</b>	<b>274,494,964</b>
<b>Total Net Assets and Liabilities</b>		<b>442,627,048</b>	<b>769,032,302</b>



# Energy & Petroleum Regulatory Authority

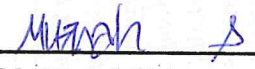
Annual Report And Financial Statements for the year ended 30 June 2020


## Statement of Financial Position as at 30 June 2020

Figures in Kenyan Shilling	Note(s)	2020	2019
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The annual report and financial statements and the notes on page 38 to 68 were approved by the on the ..... and were signed on its behalf by:

  
\_\_\_\_\_  
Mr. Daniel Kiptoo Bargarora  
Director General

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

  
\_\_\_\_\_  
Hon. Justice (Prof) Jackton B. Ojwang  
Chairman

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Statement of Changes in Net Assets

	Capital replacement reserve	Accumulated surplus	Total net assets/equity
Figures in Kenyan Shilling			
<b>Balance at 01 July 2018</b>	55,000,000	281,631,518	336,631,518
Changes in net assets/equity			
Transfer To EPRA Fund	-	(175,822,597)	(175,822,597)
Net income (losses) recognised directly in net assets	-	(175,822,597)	(175,822,597)
Surplus for the year	-	113,686,043	113,686,043
Total recognised income and expenses for the year	-	(62,136,554)	(62,136,554)
Total changes	-	(62,136,554)	(62,136,554)
<b>Balance at 01 July 2019</b>	55,000,000	219,494,964	274,494,964
Changes in net assets/equity			
Surplus for the year	-	91,091,099	91,091,099
Reduction In Reserves	-	(199,449,674)	(199,449,674)
90% Transfer To National Treasury.	-	-	-
Prior Year Adjustments	-	1,930,882	1,930,882
Total changes	-	(106,427,693)	(106,427,693)
<b>Balance at 30 June 2020</b>	55,000,000	113,067,271	168,067,271

Note(s)

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Cash Flow Statement For The Year Ended 30th June 2020

Figures in Kenyan Shilling	Note(s)	2020	2019
<b>Cash flows from operating activities</b>			
<b>Receipts</b>			
Levy		1,206,966,285	1,292,019,221
Transfer from government entities		-	34,874,087
Lisence fees		63,822,771	5,461,778
Interest Income & Miscellenous		12,518,933	17,141,892
		<b>1,283,307,989</b>	<b>1,349,496,978</b>
<b>Payments</b>			
Board expenses		(19,136,887)	(19,146,637)
Employee Costs		(515,869,386)	(423,951,699)
Training and other personnel costs		(110,910,972)	(115,741,013)
Transport and Travel		(70,922,470)	(56,289,675)
Public Relations and Consumer Services		(112,190,113)	(84,291,040)
Utilities		(8,548,163)	(6,549,729)
Information and communication technology expenses		(10,425,550)	(11,416,097)
Office rent and office services		(65,453,124)	(54,909,757)
Consultancy and other professional services		(106,231,443)	(63,475,677)
HIV/AIDS prevention related expenses		(4,671,810)	(1,774,117)
KEEP		(2,000,000)	-
Office Supplies and Other Expenses		(21,682,979)	(17,463,022)
Reduction In Reserves		(199,449,674)	-
90% Transfer To National Treasury		(260,550,327)	(125,914,100)
Revolving fund transfered to Mortgage & Car Loan		-	(175,822,597)
Interest Transfered to Mortgage and Car Loan		-	(1,139,090)
Transfer to Mortgage and Car Loan		(90,000,000)	(60,000,000)
		<b>(1,598,042,898)</b>	<b>(1,217,884,250)</b>
Total receipts		1,283,307,989	1,349,496,978
Total payments		(1,598,042,898)	(1,217,884,250)
<b>Net cash flows from operating activities</b>	<b>35</b>	<b>(314,734,909)</b>	<b>131,612,728</b>
<b>Cash flows from investing activities</b>			
Purchase of Fixed Assets & WIP	30	(101,685,397)	(70,768,943)
Proceeds from sale of Fixed Assets	30	-	1,432,000
Purchase of other intangible assets	31	(14,250,250)	(3,427,931)
<b>Net cash flows from investing activities</b>		<b>(115,935,647)</b>	<b>(72,764,874)</b>

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Cash Flow Statement For The Year Ended 30th June 2020

Figures in Kenyan Shilling	Note(s)	2020	2019
Net increase/(decrease) in cash and cash equivalents		(430,924,926)	58,847,852
Cash and cash equivalents at the beginning of the year		496,564,772	437,716,920
Cash and cash equivalents at the end of the year	26	65,639,846	496,564,772

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Statement of Comparison of Budget and Actual Amounts

Budget on Accrual Basis

	Approved budget	Adjustments	Final Budget	Actual amounts on comparable basis	Difference between final budget and actual	Reference
Figures in Kenyan Shilling						
<b>Revenue</b>						
<b>Revenue from non-exchange transactions</b>						
Transfers from government	40,000,000	(40,000,000)	-	-	-	
<b>Transfer revenue</b>						
Electricity levy	364,974,611	(38,129,801)	326,844,810	263,003,453	(63,841,357)	a
Petroleum levy	1,547,230,700	(122,323,276)	1,424,907,424	1,046,308,204	(378,599,220)	b
<b>Total revenue from non-exchange transactions</b>	<b>1,952,205,311</b>	<b>(200,453,077)</b>	<b>1,751,752,234</b>	<b>1,309,311,657</b>	<b>(442,440,577)</b>	
<b>Revenue from exchange transactions</b>						
Other income	5,000,000	55,000,000	60,000,000	65,241,029	5,241,029	c
Interest received	24,850,000	(10,850,000)	14,000,000	10,206,607	(3,793,393)	d
<b>Total revenue from exchange transactions</b>	<b>29,850,000</b>	<b>44,150,000</b>	<b>74,000,000</b>	<b>75,447,636</b>	<b>1,447,636</b>	
'Total revenue from exchange transactions'	29,850,000	44,150,000	74,000,000	75,447,636	1,447,636	
'Total revenue from non-exchange transactions'	1,952,205,311	(200,453,077)	1,751,752,234	1,309,311,657	(442,440,577)	
<b>Total revenue</b>	<b>1,982,055,311</b>	<b>(156,303,077)</b>	<b>1,825,752,234</b>	<b>1,384,759,293</b>	<b>(440,992,941)</b>	
<b>Expenditure</b>						
Board Expenses	(34,774,000)	5,000,000	(29,774,000)	(19,373,137)	10,400,863	e
Employee costs	(849,168,193)	69,890,920	(779,277,273)	(639,718,242)	139,559,031	f
Transport and travel	(89,474,000)	(33,967,300)	(123,441,300)	(85,923,390)	37,517,910	g
Public relation and consumer services	(91,400,000)	(113,500,000)	(204,900,000)	(145,104,590)	59,795,410	h
Information & communication Technology	(19,200,000)	-	(19,200,000)	(15,425,550)	3,774,450	i
Consultancy and other professional services	(169,690,700)	(29,956,000)	(199,646,700)	(148,910,758)	50,735,942	j
Depreciation and amortisation expense	(72,050,249)	9,000,000	(63,050,249)	(46,440,383)	16,609,866	k
Transfer to Mortgage and Car Loan Scheme	(70,000,000)	(20,000,000)	(90,000,000)	(90,000,000)	-	l
Office Supplies	(24,800,994)	(3,510,000)	(28,310,994)	(20,785,847)	7,525,147	m
Office rent and services	(70,200,000)	(5,000,000)	(75,200,000)	(66,761,424)	8,438,576	n



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Statement of Comparison of Budget and Actual Amounts

Budget on Accrual Basis

	Approved budget	Adjustments	Final Budget	Actual amounts on comparable basis	Difference between final budget and actual	Reference
Figures in Kenyan Shilling						
HIV/AIDS Prevention	(7,400,000)	(30,415,732)	(37,815,732)	(4,671,810)	33,143,922	o
Utilities	(15,915,120)	-	(15,915,120)	(8,553,063)	7,362,057	p
Contingency and other costs	(2,000,000)	-	(2,000,000)	(2,000,000)	-	
<b>Total expenditure</b>	<b>(1,516,073,256)</b>	<b>(152,458,112)</b>	<b>(1,668,531,368)</b>	<b>(1,293,668,194)</b>	<b>374,863,174</b>	
	465,982,055	(308,761,189)	157,220,866	91,091,099	(66,129,767)	
	-	-	-	-	-	
<b>Surplus (Deficit) Before Taxation</b>	<b>465,982,055</b>	<b>(308,761,189)</b>	<b>157,220,866</b>	<b>91,091,099</b>	<b>(66,129,767)</b>	
Taxation	-	-	-	-	-	
<b>Surplus (Deficit) Before Taxation</b>	<b>465,982,055</b>	<b>(308,761,189)</b>	<b>157,220,866</b>	<b>91,091,099</b>	<b>(66,129,767)</b>	
Taxation	-	-	-	-	-	
<b>Actual Amount on Comparable Basis as Presented in the Budget and Actual Comparative Statement</b>	<b>465,982,055</b>	<b>(308,761,189)</b>	<b>157,220,866</b>	<b>91,091,099</b>	<b>(66,129,767)</b>	

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Statement of Comparison of Budget and Actual Amounts

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### Budget difference

The budget and financial statements of EPRA are reported following the accrual basis, hence there are no differences arising from the treatment. The differences between the approved and final budget are due to reallocations, which was submitted to the National Treasury through the Ministry of Energy for approval. The explanation on differences between the actual and budget is below:

a) Electricity levy is below budget by Kshs.63,841,357, representing an under collection of 19.5%.

This is attributed to low remittance of electricity levy than had been anticipated due lower sales of electricity than had been anticipated due to possible slowdown of economic activities especially towards the last quarter of the financial year.

b) Petroleum levy received was below budget by Kshs.378,599,220 representing an under collection of 26.6%.

This is as a result of a combination of many economic factors that impacted on the fuel prices and supply chain hence depressed consumption of petroleum products among them imposition of 8% VAT on petroleum products, high international crude oil prices for the better part of the year and the covid-19 pandemic which resulted in near shut down of economic activities due to restriction of movement.

c) Other income was within budget.

d) Interest received was below budget by Kshs.3,793,393 representing under receipt of 27.1% due to retirement of all investments in T-bills and remittance of the proceeds and surplus funds to National treasury following a government directive.

e) Expenditure on board activities is below the budget by KES 10,400,863 representing under expenditure of 34.9%. This resulted from savings that emanated from suspension of physical meetings, local travel, international travel and trainings and subsequent adoption of online meetings, trainings and webinars following the Covid-19 pandemic.

f) Expenditure on employees is below the budget by KES 139,559,031 representing under expenditure of 17.9%. This is attributed to suspension of physical staff trainings due to covid-19 pandemic and adoption of online training leading to cost savings and overwhelming applications for various vacant positions leading to a prolonged recruitment process due to capacity challenges.

n) Expenditure on Transport and Travel is below the budget by Kshs.37,517,910 representing under expenditure of 30.4%. This is attributed to suspension of local and international travel and downscaling of surveillance activities at the peak of the Covid-19 pandemic.

g) Expenditure on Public Relations and Consumer Services is within the budget.

e) Expenditure on Information & Communication Technology is below budget by Kshs.3,774,450 representing an under expenditure of 19.7%. This is attributed to savings on internet services and disaster recovery.

i) Consultancy and other professional services is below budget by Kshs. 50,735,942 representing under expenditure of 22.8%. This was due to significant savings in legal fees and staff recruitment costs. The impact of Covid-19 pandemic also resulted in underutilization of funds allocated for LPG inspection, ISO, Strategy and performance contracting activities some of which had to be suspended.

j) Expenditure on Depreciation is below the budget by Kshs.16,609,867 representing under expenditure of 26.3%. This is attributed to delay in completion of the partitioning and fit out works in the regional offices and delay in delivery of some ICT equipment that the dealers source from outside the country.

k) Transfer to mortgage and car loan funds is within the budget.

l) Expenditure on Office Supplies is below the budget by Kshs.7,525,148 representing under expenditure of 26.6%. This resulted from savings on cost of hosting office meetings due to a shift to online meetings and savings realized on purchase of stationery.

m) Expenditure on Office rent and services below the budget by Kshs.8,438,576 representing under expenditure of 11.2%. This is attributed non responsiveness of some tenders leading to delay in the procurement process and delayed occupancy of the premises.

n) Expenditure on Transport and Travel is below the budget by Kshs.37,517,910 representing under expenditure

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Statement of Comparison of Budget and Actual Amounts

---

### Budget difference

of 30.3%. This is attributed to suspension of local and international travel and downscaling of surveillance activities at the peak of the Covid-19 pandemic.

o) HIV/AIDS Prevention was below budget by KES 33,143,922 representing underutilization of 87.6%. This was majorly attributed to suspension of outdoor activities which were to be undertaken within the budget line such as culture change which formed the bulk of the budget.

k) Expenditure on Utilities is below the budget by Kshs.7,366,957 representing under expenditure of 46.2%. This resulted from savings on telephone expenditure.

l) Expenditure on contingency was within budget.

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

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### 1. General information

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

### 2. Statement of compliance and basis of preparation

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

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

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

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

### 3. Adoption of new and revised standards

#### 3.1 Relevant new standards and amendments to published standards effective for the year ended 30 June 2020

Standard/ Interpretation:	Effective date: Years beginning on or after	Expected impact:
<ul style="list-style-type: none"><li>IPSAS 40 – Public Sector Combinations</li></ul>	01 January 2019	The Authority will not be impacted by this standard

#### 3.2 Standards and interpretations issued, but not yet effective

The entity has not applied the following standards and interpretations, which have been published and are mandatory for the entity's accounting periods beginning on or after 01 July 2020 or later periods:

Standard/ Interpretation:	Effective date: Years beginning on or after	Expected impact:
<ul style="list-style-type: none"><li>IPSAS 41 Financial Instruments</li></ul>	01 January 2022	The impact to the Authority will not be material

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

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### 3. Adoption of new and revised standards (continued)

- |  |                 |   |
|--|-----------------|---|
| • IPSAS 42. Social Benefits  | 01 January 2022 | The impact to the Authority will not be material    |
| • Amendments to Other IPSAS resulting from IPSAS 41, Financial Instruments | 01 January 2022 | The impact to the Authority will not be material    |
| • Other Improvements to IPSAS  | 01 January 2021 | The Authority will not be impacted by this Standard |



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

---

### 4. Summary of significant accounting policies

#### a) Revenue recognition

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

###### Electricity and Petroleum Levies

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

###### Transfers from other government entities

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

##### ii) Revenue from exchange transactions

###### Miscellaneous Revenue

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

###### Interest income

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

#### b) Budget information

The original budget for FY 2019/2020 was approved by the National Treasury through Ministry of Energy on 29th July 2020. Subsequent revision or additional appropriations were made to the approved budget in accordance with specific approvals from the appropriate authorities. The additional appropriations are added to the original budget by the entity upon receiving the respective approvals in order to conclude the final budget.

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

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

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### 4. Summary of significant accounting policies (continued)

#### c) Taxation/Transfer to treasury

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

The surplus funds are net of capital investments acquired in the year and any contributions to EPRA established funds within the year.

#### d) Property, plant and equipment

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

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

#### e) Leases

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

#### f) Intangible assets

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

The amortization rates used are as follows;

• Intangible Assets	30%
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The useful life of the intangible assets is assessed as either finite or indefinite.

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# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

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### 4. Summary of significant accounting policies (continued)

#### i) Research and development costs

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

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

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

#### j) Financial instruments

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

##### Government securities

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

##### Short term deposits

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

##### Trade receivables

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

##### Trade payables

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

##### Impairment of financial assets

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

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

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### 4. Summary of significant accounting policies (continued)

#### k) Provisions

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

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

#### l) Contingent liabilities

The Authority does not recognize a contingent liability, but discloses details of any contingencies in the notes to the financial statements, unless the possibility of an outflow of resources embodying economic benefits or service potential is remote. There are no contingent liabilities at the moment.

#### m) Contingent assets

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

#### n) Nature and purpose of reserves

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

##### Accumulated Surplus

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

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

##### Sinking Fund Reserves

The sinking fund reserve is money that the Authority has set aside for replacement of fixed assets.

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

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

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# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

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### 4. Summary of significant accounting policies (continued)

#### p)Employee benefits

##### Retirement benefit plans

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

#### q)Foreign currency transactions

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

#### r)Related parties

The Authority regards a related party as a person or an entity with the ability to exert control individually or jointly, or to exercise significant influence over the Authority. Members of key management are regarded as related parties and comprise Board Members and senior managers (see further disclosures of related parties in note 29).

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

#### s)Cash and cash equivalents

Cash and cash equivalents comprise cash in Mpesa and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at various commercial banks at the end of the financial year.

#### t)Comparative figures

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

#### s)Inventories

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

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

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### 5. Significant judgements and sources of estimation uncertainty

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

Estimates and assumptions:

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

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

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

Provisions:

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

Subsequent events:

There have been no events subsequent to the financial year-end with a significant impact on the financial statements for the year ended June 30, 2020.

### 6. Transfers from government

Exchequer support	-	31,288,845
Capacity Building-World Bank	-	3,585,242
	-	<b>34,874,087</b>

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### 7. Electricity levy

Electricity levy	263,003,453	347,272,642
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Legal Notice No. 148 of 1999.

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling	2020	2019
<b>8. Petroleum levy</b>		
Petroleum levy	1,046,308,204	1,060,760,528
Legal Notice No. 162 of 2018		
<b>9. Other income</b>		
Licence Fees	63,822,770	5,275,770
Miscellaneous	1,418,259	186,007
	<b>65,241,029</b>	<b>5,461,777</b>
<b>10. Interest received</b>		
Interest	10,206,607	17,141,892
<b>11. Board Expenses</b>		
Monthly Fees and Honorarium	5,715,359	4,517,143
Sitting Allowance	5,346,000	4,660,000
Meeting, Entertainment and Others	1,521,073	1,087,000
Seminars, Travel and accommodation	6,454,642	12,393,814
Medical and GPA	336,063	438,641
	<b>19,373,137</b>	<b>23,096,598</b>
<b>12. Employee costs</b>		
Salaries	327,022,073	266,887,146
Pension and Gratuity	68,637,880	57,178,216
Special duty and Acting allowances	11,270,659	7,679,189
Car and Commuter allowance	27,560,801	25,636,202
House allowance	80,673,802	62,179,701
Fringe benefits	1,915,536	1,299,122
Leave and Other allowances	8,697,218	10,935,404
Medical	32,795,840	34,743,344
Subscriptions-Clubs and Professional associations	1,533,023	1,288,406
Life and Accident Insurance	3,452,756	4,825,036
Staff Uniforms	1,317,912	844,998
Training and Capacity Building-EPRA Funded	73,023,006	75,237,259
Staff Welfare and Laundry	1,817,736	1,313,205
	<b>639,718,242</b>	<b>550,047,228</b>

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling	2020	2019
<b>13. Transport &amp; travel</b>		
Travel-Local and Surveillance Audits	55,678,989	51,242,007
Travel-International	18,701,467	22,302,570
Fuel	4,999,917	3,278,611
Vehicle repair and service	4,867,765	2,197,669
Vehicle insurance and licences	1,675,252	2,228,814
	<b>85,923,390</b>	<b>81,249,671</b>
<b>14. Public relation and consumer services</b>		
Corporate Subscriptions	5,062,891	5,129,880
Corporate Social Responsibility	18,800,229	7,103,972
Advertising and Public Relations	61,614,055	30,738,347
Media Announcements	13,885,200	14,994,666
Public Seminars & Workshops	25,710,009	25,354,022
PR Agency	11,495,600	6,380,000
Branding / Printing	7,443,736	871,550
Events	210,950	809,500
Gazette Notices	881,920	785,795
	<b>145,104,590</b>	<b>92,167,732</b>
<b>15. Utilities</b>		
ISDN Line and Disaster Recovery	1,779,135	1,025,974
Telephone and Fax	6,773,928	5,523,756
	<b>8,553,063</b>	<b>6,549,730</b>
<b>16. Information and communication technology</b>		
Bandwidth	2,134,415	4,865,042
Software Licences	13,291,135	13,925,257
	<b>15,425,550</b>	<b>18,790,299</b>
<b>17. Office rent &amp; Other services</b>		
Rent and Parking	58,043,704	48,108,697
Security	3,048,005	1,495,200
Office cleaning	3,704,961	3,401,987
Repair and services-Office equipment	766,213	616,463
Insurance and Other costs	1,198,541	1,287,410
	<b>66,761,424</b>	<b>54,909,757</b>

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling	2020	2019
<b>18. Consultancy and other professional services</b>		
Consultancy -EPRA Funded	120,796,225	114,146,733
Bank charges	1,108,473	979,396
Audit fees and expenses	348,000	348,000
Other Professional Services	26,658,060	21,581,037
	<b>148,910,758</b>	<b>137,055,166</b>
<b>19. HIV/AIDS Prevention &amp; others</b>		
Gender	184,620	278,120
Drugs and substance abuse	212,019	716,950
Safety,disability,HIV/AIDS and others	4,275,171	779,047
	<b>4,671,810</b>	<b>1,774,117</b>
<b>20. Depreciation and amortisation expense</b>		
Property, plant and equipment	35,094,036	38,058,321
Intangible assets	11,346,347	7,724,365
	<b>46,440,383</b>	<b>45,782,686</b>
<b>21. Contingency and other costs</b>		
Kenya energy and environmental programme[KEEP]	2,000,000	2,000,000
<b>22. Office supplies</b>		
Stationary, postage and supplies	7,250,526	6,393,195
Meeting,office tea and miscellaneous	3,383,024	2,253,332
Newspapers, books and periodicals	10,152,297	8,816,495
	<b>20,785,847</b>	<b>17,463,022</b>
<b>23. Transfer to Staff Mortgage &amp; Car Loan</b>		
Transfer to Staff Mortgage & Car Loan	90,000,000	61,139,060
<b>24. Gain on sale of assets</b>		
Property, plant and equipment	-	750,509



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling	2020	2019
<b>25. Remission to National Treasury</b>		
Surplus for the year	91,091,099	374,236,369
Purchase of assets	(148,004,046)	(84,736,007)
<b>Realised surplus</b>	<b>(56,912,947)</b>	<b>289,500,362</b>
<b>90% of released profit</b>	<b>(51,221,652)</b>	<b>260,550,326</b>

### 26. Cash and cash equivalents

Cash and cash equivalents consist of:

Mpesa	1,777,220	2,491,154
Bank balances	31,497,466	31,518,643
KCB - Fixed Deposits	-	300,000,000
CBK - Treasury Bills	-	162,554,975
KCB-Snr Mgt Gratuity Current Account	4,359,770	-
KCB-Snr Mgt Gratuity Investment	28,005,390	-
	<b>65,639,846</b>	<b>496,564,772</b>

In the month of October 2018 all Senior management staff were put on a five year renewable contract. KCB Senior Management Gratuity Account is held for Senior Management gratuity obligation. This is cash payable at the end of each employees' contract.

### 27. Receivables from exchange transactions

Prepayments	18,168,383	-
Deposits	15,936,753	13,275,698
	<b>34,105,136</b>	<b>13,275,698</b>

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling

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### 27. Receivables from exchange transactions (continued)

#### Trade and other receivables past due but not impaired

Trade and other receivables are not considered to be impaired.

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

Description	1-6 Months	6-12 Months	Over 1Year	Total Ksh
	Ksh	Ksh	Ksh	
Hospital,fuels and rent deposit	-	-	15,837,753	15,837,753
Telephone-deposits	-	-	99,000	99,000
Prepayments	18,168,383	-	-	18,168,383
	<b>18,168,383</b>	<b>-</b>	<b>15,936,753</b>	<b>34,105,136</b>

Prepayments amounting to KES. 18,168,383 are for Rent and Insurance and Rent deposit of KES 12,115,352.82 relates to deposit for 3 months for the 4 floors that EPRA occupies at Eagle Africa Building and regional offices. Hospital deposits of KES 650,000.00 are held with Gertrude's, Aga Khan and Nairobi Hospitals to facilitate staff who seek outpatient treatment as per the EPRA medical policy. KES 2,000,000 is KQ deposits, KES 192,399.94 Aquamist dispenser deposit, KES 99,000 is telephone deposits, KES 20,000 legal fees deposit, KES 200,000 Toyota Kenya and KES. 660,000 for fuel

### 28. Receivables from non-exchange transactions

Board Imprest	315,257	2,335,768
Staff Imprest	(1,763,163)	(163,790)
Revenue Debtors	102,360,793	120,454,027
Receivables from MOE	4,223,843	727,062
Staff salaries & Medical advances	1,311,424	793,068
	<b>106,448,154</b>	<b>124,146,135</b>

### 29. Inventories

Inventories	3,425,225	3,463,715
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# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling

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### 30. Property, plant and equipment

Company	2020			2019		
	Cost / Valuation	Accumulated depreciation and accumulated impairment	Carrying value	Cost / Valuation	Accumulated depreciation and accumulated impairment	Carrying value
Furniture and fixtures	137,383,526	(115,272,250)	22,111,276	134,609,543	(110,569,416)	24,040,127
Motor vehicles	109,839,216	(81,436,936)	28,402,280	109,839,216	(66,946,328)	42,892,888
Office equipment	29,814,471	(15,174,751)	14,639,720	24,358,761	(13,262,621)	11,096,140
IT equipment	123,912,626	(52,625,063)	71,287,563	72,399,038	(38,499,627)	33,899,411
Work in Progress	79,067,020	-	79,067,020	5,056,490	-	5,056,490
<b>Total</b>	<b>480,016,859</b>	<b>(264,509,000)</b>	<b>215,507,859</b>	<b>346,263,048</b>	<b>(229,277,992)</b>	<b>116,985,056</b>

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling	2020	2019				
<b>30. Property, plant and equipment (continued)</b>						
<b>Reconciliation of property, plant and equipment</b>						
	<b>Furniture and fixtures</b>	<b>Motor vehicles</b>	<b>Office equipment</b>	<b>IT equipment</b>	<b>Work in Progress</b>	<b>Total</b>
<b>Cost</b>						
At 01 July 2018	135,130,003	65,780,325	22,104,487	45,817,056	-	268,831,871
Additions	(520,460)	48,717,600	3,911,807	26,581,982	5,056,490	83,747,419
Disposals and scrappings	-	(4,658,709)	(1,657,533)	-	-	(6,316,242)
	-	-	-	-	-	-
<b>At 30 June 2019</b>	<b>134,609,543</b>	<b>109,839,216</b>	<b>24,358,761</b>	<b>72,399,038</b>	<b>5,056,490</b>	<b>346,263,048</b>
Additions	2,773,983	-	5,455,710	51,513,588	-	59,743,281
WIP	-	-	-	-	74,010,530	74,010,530
<b>At 30 June 2020</b>	<b>137,383,526</b>	<b>109,839,216</b>	<b>29,814,471</b>	<b>123,912,626</b>	<b>79,067,020</b>	<b>480,016,859</b>
<b>Depreciation and impairment</b>						
At 01 July 2018	(93,060,984)	(56,814,568)	(12,125,574)	(32,759,023)	-	(194,760,149)
Disposals and scrappings - accumulated depreciation and impairment	-	4,658,709	976,042	-	-	5,634,751
Depreciation	(17,508,433)	(12,696,195)	(2,033,161)	(5,820,532)	-	(38,058,321)
Depreciation Donated Vehicle	-	(2,094,273)	-	-	-	(2,094,273)
<b>At 30 June 2019</b>	<b>(110,569,417)</b>	<b>(66,946,327)</b>	<b>(13,182,693)</b>	<b>(38,579,555)</b>	<b>-</b>	<b>(229,277,992)</b>
Depreciation	(4,702,834)	(14,353,635)	(1,912,130)	(14,125,437)	-	(35,094,036)
Depreciation Donated Vehicle	-	(136,973)	-	-	-	(136,973)
<b>At 30 June 2020</b>	<b>115,272,250</b>	<b>(81,436,936)</b>	<b>(15,094,823)</b>	<b>(52,704,992)</b>	<b>-</b>	<b>(264,509,000)</b>
<b>Net book values</b>						
Cost	137,383,526	109,839,216	29,814,471	123,912,626	79,067,020	480,016,859
Accumulated depreciation and impairment	(115,272,250)	(81,436,936)	(15,094,823)	(52,704,992)	-	(264,509,001)
<b>At 30 June 2020</b>	<b>22,111,276</b>	<b>28,402,280</b>	<b>14,719,648</b>	<b>71,207,634</b>	<b>79,067,020</b>	<b>215,507,858</b>

As at 30 June 2020, property and equipment with cost amounting to KES 199,257,336.5 were fully depreciated and intangible assets with cost amounting to 27,490,917.39 were fully amortized. Depreciation of KES 136,973 relates to a donated Motor vehicle which has been offset against Deferred Income and not on the Statement of Financial Performance.

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling 2020 2019

### 31. Intangible assets

Company	2020			2019		
	Cost / Valuation	Accumulated amortisation and accumulated impairment	Carrying value	Cost / Valuation	Accumulated amortisation and accumulated impairment	Carrying value
Computer software, other	113,996,854	(96,496,026)	17,500,828	99,746,604	(85,149,679)	14,596,925

#### Reconciliation of intangible assets

##### Cost

Opening balance		99,746,604	93,701,526
Additions		14,250,250	6,045,078
<b>Closing balance</b>		<b>113,996,854</b>	<b>99,746,604</b>

##### Amortisation and impairment

Opening balance		(84,946,354)	(77,425,314)
Amortisation		(11,549,672)	(7,724,365)
<b>Closing balance</b>		<b>(96,496,026)</b>	<b>(85,149,679)</b>

##### Made up as follows:

Cost		113,996,854	99,746,604
Amortisation and impairment		(96,496,026)	(85,149,679)
<b>Net book value</b>		<b>17,500,828</b>	<b>14,596,925</b>

### 32. Payables under exchange transactions

Suppliers	66,598,302	144,068,524
Rural Electrification Authority	-	10,196,695
Energy Act advances and others	47,313,246	1,161,653
Accruals	93,809,478	34,860,270
Deferred income	-	136,973
	<b>207,721,026</b>	<b>190,424,115</b>

Description	1-6 Months Ksh	6-12 Months Ksh	Over 1Year Ksh	Total
Suppliers	42,600,473	3,025,346	20,972,483	66,598,302
Energy Act advances & Others	47,313,246	-	-	47,313,246
Accruals	93,809,478	-	-	93,809,478
	<b>183,723,197</b>	<b>3,025,346</b>	<b>20,972,483</b>	<b>207,721,026</b>



# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling	2020	2019		
<b>33. Provisions</b>				
<b>Reconciliation of provisions - 2020</b>				
	<b>Opening Balance</b>	<b>Additions</b>	<b>Utilised during the year</b>	<b>Total</b>
Audit fees	348,000	348,000	-	696,000
Withheld taxes & other statutory deductions	12,567,437	2,336,162	-	14,903,599
Amounts due to consolidated funds	260,550,327	-	(260,550,327)	-
	<b>273,465,764</b>	<b>2,684,162</b>	<b>(260,550,327)</b>	<b>15,599,599</b>
<b>Reconciliation of provisions - 2019</b>				
	<b>Opening Balance</b>	<b>Additions</b>	<b>Utilised during the year</b>	<b>Total</b>
Audit fees	348,000	-	-	348,000
Withheld taxes & other statutory deductions	7,957,289	4,844,422	-	12,567,437
Amounts due to consolidated funds	125,914,100	260,550,327	(125,914,100)	260,550,327
	<b>134,219,389</b>	<b>265,394,749</b>	<b>(125,914,100)</b>	<b>273,465,764</b>
<b>34. Employee benefit obligations</b>				
Other payroll benefits			13,958,918	13,222,898
Gratuity			37,280,234	17,424,561
			<b>51,239,152</b>	<b>30,647,459</b>
<b>35. Cash (used in) generated from operations</b>				
Surplus			91,091,099	113,686,043
<b>Adjustments for:</b>				
Depreciation and amortisation expense			46,440,383	45,782,686
Gain on sale of assets			-	(750,509)
Increase in Employee Benefit Provision			20,591,693	20,560,381
90% Transfer To National Treasury			(260,550,327)	125,331,875
Reduction In Reserves			(199,449,674)	-
Depreciation for donated motor vehicle			136,973	2,094,273
Adjustment			(27,199,000)	59,692,218
Transfer to EPRA fund			-	(236,961,657)
<b>Changes in working capital:</b>				
Inventories			38,490	(849,564)
Receivables from exchange transactions			(20,829,438)	-
Other receivables from non-exchange transactions			17,697,981	(78,115,703)
Payables under exchange transactions			17,296,911	81,142,685
<b>Cash (used in) generated from operations</b>			<b>(314,734,909)</b>	<b>131,612,728</b>

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling 2020 2019

### 36. Risk management

#### Financial risk management

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

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

#### Credit risk management

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

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

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

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

As at June 2019	Fully performing Ksh	Past due Ksh	Impairment Ksh	Total
Receivables from non exchange transactions	124,146,135	-	-	124,146,135
Bank Balances	496,564,772	-	-	496,564,772
	<b>620,710,907</b>	<b>-</b>	<b>-</b>	<b>620,710,907</b>

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

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

Bank balance includes cash in hand and deposits held with banks.

#### Liquidity risk management

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling

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### 36. Risk management (continued)

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

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

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

	1- 6 Months	6 - 12 Months	Over 1 Year	Total
Trade & other payables from exchange transactions	42,600,473	3,025,436	20,972,483	66,598,302
Employee benefits Obligation	-	51,239,152	-	51,239,152
Audit fees payable	696,000	-	-	696,000
Withheld tax and other statutory deductions	14,903,599	-	-	14,903,599
Accruals	145,805,275	-	-	145,805,275
Energy Act Advances and Others	47,313,246	-	-	47,313,246
	<b>251,318,593</b>	<b>54,264,588</b>	<b>20,972,483</b>	<b>326,555,574</b>

### 37. Operating Lease Commitments

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

Not later than 1 year	-	42,024,201
Later than 1 year and not later than 5 years	-	210,121,003
	-	<b>252,145,204</b>

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

### 38. Dividends/surplus remission

In accordance with Section 219 (2) of the Public Management Act regulation, regulatory entities shall remit into Consolidated Fund, ninety per centum of its surplus funds reported in the audited financial statements after the end of each financial year. EPRA made a surplus during the year (FY 2018/2019) and hence remitted Ksh 260,550,327 as 90% of the surplus and remitted again Kes 199,449,673 upon request by National Treasury. This Financial Year the Authority has reported a surplus of KES. 16,417,244 hence will remit KES. 14,776,519.

### 39. Events after the reporting date

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

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling	2020	2019
<b>40. Ultimate and Holding Entity</b>		
EPRA is a state corporation under the Ministry of Energy. Its ultimate parent is the Government of Kenya.		
<b>41. Related parties</b>		
<b>Transactions with related parties</b>		
<b>Key management compensation</b>		
Compensation to Senior Management	71,141,685	62,982,760
Compensation to the Director General	9,390,872	74,011,059
	<b>80,532,557</b>	<b>136,993,819</b>
<b>Grants from Government</b>		
State Department of petroleum	-	34,793,087
Ministry of energy	-	81,000
	-	-
	<b>-</b>	<b>34,874,087</b>

# Energy & Petroleum Regulatory Authority

Annual Report And Financial Statements for the year ended 30 June 2020

## Notes to the Annual Report And Financial Statements

Figures in Kenyan Shilling

2020

2019

### 41. Related parties (continued)

#### Board Members Remuneration

2020

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

2019

Name	Monthly Fee and Honoraria	Sitting Allowance	Lunch	Total
Joshua Oigara	1,565,000	320,000	14,000	1,899,000
Titus Gitahi	-	160,000	-	160,000
Veronica Kamau	-	320,000	16,000	336,000
Eng. Samuel Maugo	600,000	640,000	30,000	1,270,000
Eng. Erick Nyamuga	473,333	640,000	26,000	1,139,333
Dr. Sellah Kebenei	487,143	960,000	24,000	1,471,143
Peter Njenga Mwangi	600,000	840,000	36,000	1,476,000
Nixon Lenaiyara	150,000	700,000	18,000	868,000
Lilian Mahiri Zaja	41,667	80,000	4,000	125,667
National	600,000	-	-	600,000
	<b>4,517,143</b>	<b>4,660,000</b>	<b>168,000</b>	<b>9,345,143</b>



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**Appendix I: Progress on Follow up of Auditor Recommendations**

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

## **Energy & Petroleum Regulatory Authority**

Annual Report And Financial Statements for the year ended 30 June 2020

### **Projects Implemented by the Entity**

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

## **Appendix II: Inter-Entity Transfers**

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Financial Year 2019/2020

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

## **Energy & Petroleum Regulatory Authority**

Annual Report And Financial Statements for the year ended 30 June 2020

### **Recording of Transfers from Other Government Entities**

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

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