



*Approved
SAA
3/12/25*

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT –FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON ENERGY

REPORT ON THE CONSIDERATION OF THE ENERGY (AMENDMENTS) BILL (SENATE
BILL NO. 42 OF 2023)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 03 DEC 2025	DAY: Wednesday
TABLED BY:	Hon. David Gikania, CBS, MP
CLERK-AT-THE-TABLE:	Geinade Chebet

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

DECEMBER, 2025

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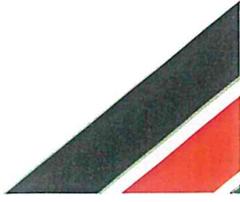


Table of Contents

LIST OF ABBREVIATIONS	3
CHAIRPERSON’S FOREWARD	4
PART I	5
1.0 PREFACE	5
1.1. Introduction	5
1.2. Mandate of the Committee	5
1.3. Oversight	5
1.4. Committee Membership	6
1.5. Committee Secretariat	7
PART II	8
2.0 OVERVIEW OF THE ENERGY (AMENDMENT) BILL, (SENATE BILL NO. 42 OF 2023) 8	
2.1. Salient Provisions of the Bill	8
2.2. Alignment with Legal Frameworks	8
2.3. Advantages of Enactment of the Bill	9
2.4. Disadvantages of Enactment of the Bill	9
PART III	11
3.0 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION	11
3.1. Submissions by the Ministry of Energy and Petroleum	11
3.2. Submissions by the Sosian Energy Limited	13
PART IV	14
4.0 COMMITTEE OBSERVATIONS	14
PART V	15
5.0 COMMITTEE RECOMMENDATIONS	15
LIST OF ANEXURES	16

LIST OF ABBREVIATIONS

EPRA	-	Energy and Petroleum Regulatory Authority
EPAs	-	Energy Purchase Agreements
MW	-	Megawatts
MWh	-	Megawatts per Hour
NDC	-	Nationally Determined Contributions
PPAs	-	Power Purchase Agreements
KPLC	-	Kenya Power & Lighting Company
PFM	-	Public Finance Management
PPP	-	Public Private Partnership
PPAD	-	Public Procurement and Asset Disposal

CHAIRPERSON'S FOREWORD

This report details the consideration by the Departmental Committee on Energy of the Energy (Amendment) Bill (Senate Bill No. 42 of 2023). The Bill seeks to amend the Energy Act, Cap. 314 to create transparency in the purchase of electric energy from private generators, ensure the contracts entered into are financially sound to protect the end user of electricity from inflated electricity costs.

The Bill was published on 30th October, 2023 and read a First Time in the House on 24th April 2025. It was thereafter committed to the Departmental Committee on Energy for consideration and reporting to the House pursuant to the provisions of Standing Order 127.

Article 118(1) (b) of the Constitution and Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. In compliance with the foregoing, through the placement of adverts in the print media on 15th May 2025 (Annex 3), the National Assembly invited the public and interested stakeholders to submit memoranda on the proposed amendments.

Further, vide its letters dated 12th June 2025 and 18th July 2025, the Committee invited the Ministry of Energy and Petroleum for a meeting on the 29th July 2025 to give their comments and proposals on the Bill. In addition, the Committee vide its letter dated 1st October 2025, invited other stakeholders including Orpower 4 Inc, Kipeto Energy PLC, Sosian Energy Limited and Lake Turkana Wind Power Ltd for a meeting to give their comments and proposals on the Bill.

The Committee thereafter held meetings where submissions were received and the presentations considered before the adoption of this report.

Having considered the proposed amendments of the Energy Act, Cap. 314 and based on analysis of submissions by the Ministry of Energy and Petroleum and Sosian Energy Limited, the Committee made observations for each of the proposed amendments to the Energy (Amendments) Bill as contained in Part IV of this Report.

The Committee having reviewed the Energy (Amendment) Bill (Senate Bill No. 42 of 2023) recommends that the House approves the Bill with amendments as proposed in the Schedule in Part six of this report.

Hon. David Gikaria, CBS, M.P.
Chairperson Departmental Committee on Energy

PART I

1.0 PREFACE

1.1. Introduction

1. This report details the consideration by the Departmental Committee on Energy of the Statute Law (Miscellaneous Amendments) Bill (Senate Bill No. 42 of 2023).
2. The Bill was published on 30th October, 2023 and read a First Time in the House on 15th December, 2022. It was thereafter committed to the Departmental Committee on Energy for consideration and reporting to the House pursuant to the provision of Standing Order 127. Specifically, the Committee considered amendments proposed to **the Energy Act, Cap.314**.

1.2. Mandate of the Committee

3. The Departmental Committee on Energy is established pursuant to the National Assembly Standing Order No. 216. The functions and mandate of the Committee include, among others, **“to study and review all legislation referred to it”**.
4. The subject matter under the purview of the Departmental Committee on Energy are stated in the Second Schedule of the National Assembly Standing Orders as follows: The Committee is mandated to consider matters relating to the Fossil Fuel Exploration, Development, Production, Maintenance and Regulation of Energy.

1.3. Oversight

5. In executing its mandate, the Committee oversees the following State Departments: The State Department for Energy and The State Department for Petroleum.

1.4. Committee Membership

6. The Departmental Committee on Energy comprises of the following Members:

Chairperson

Hon. David Gikaria, CBS, MP
Nakuru Town East Constituency

UDA Party

Vice-Chairperson

Hon. Lemanken Aramat, MP
Narok East Constituency

UDA Party

Members

Hon. Charles Gimose, MP
Hamisi Constituency

ANC Party

Hon. Siyad Amina Udgoon, MP
Garissa County

Jubilee Party

Hon. Walter Owino, MP
Awendo Constituency

ODM Party

Hon. Barongo Nolfason Obadiah., MP
Bomachoge Borabu Constituency

ODM Party

Hon. Musili Mawathe, MP
Embakasi South Constituency

WDM - K Party

Hon. George Aladwa Omwera, MP
Makadara Constituency

ODM Party

Hon. Elisha Odhiambo, MP
Gem Constituency

ODM Party

Hon. Cecilia Asinyen Ng'itit, MP
Turkana County

UDA Party

Hon. Gonzi Rai, MP
Kinango Constituency

PAA Party

Hon. Victor Koech Kipngetich, MP
Chepalungu Constituency

CCM Party

Hon. Simon King'ara, MP
Ruiru Constituency

UDA Party

Hon. Geoffrey Ekesa Mulanya, MP
Nambale Constituency

Independent

Hon. Tom Mboya Odege, MP
Nyatike Constituency

ODM Party

1.5. Committee Secretariat

7. The Committee is facilitated by the following technical staff representing the office of the Clerk:

Mr. Fredrick O. Otieno
Clerk Assistant I/Head of Secretariat

Mr. Salim Athuman
Clerk Assistant III

Ms. Brigitta Mati
Senior Legal Counsel

Mr. Brian Njeru
Fiscal Analyst II

Mr. Robert Langat
Research Officer III

Mr. Ambrose Nguti
Media Relations Officer II

Ms. Viola Saiya
Research Officer III

Ms. Lillian Aluga
Public Communications Officer

Mr. Anthony Wamae
Serjeant-At-Arms

Mrs. Rehema Koech
Audio Officer III

PART II

2.0 OVERVIEW OF THE ENERGY (AMENDMENT) BILL, (SENATE BILL NO. 42 OF 2023)

8. The Energy (Amendment) Bill, (Senate Bill No. 42 of 2023), sponsored by Senator Edwin Sifuna, MP, seeks to amend the Energy Act, Cap.314. The Bill proposes the introduction of Section 134A to govern Energy Purchase Agreements (EPAs) with an emphasis on transparency, accountability, prudent financial management, and public participation. The Bill was published on 30th October, 2023 and read a First Time in the House on 24th April, 2025.
9. Pursuant to Standing Order 127(1), the Bill was committed to the Departmental Committee on Energy for consideration.
10. The Bill seeks to amend the following law, which is relevant to the Departmental Committee on Energy: **The Energy Act, Cap. 314.**
11. The Bill aims to ensure greater transparency and accountability in the procurement of electric energy by requiring disclosure of beneficial ownership and adherence to the principles enshrined in Article 201 of the Constitution of Kenya. It endeavors to establish a statutory mechanism for regulating the conduct of EPAs between generating entities and licensed purchasing entities, including Kenya Power and Lighting Company.

2.1.Salient Provisions of the Bill

12. Insertion of Section 134A:
 - a) Subsection (1) authorizes generating entities to enter into EPAs with specified licensed entities.
 - b) Subsection (2) mandates that EPAs comply with the principles of public finance under Article 201 of the Constitution.
 - c) Subsection (3) imposes obligations on purchasing entities to conduct feasibility studies, follow procurement procedures, and prioritize renewable energy.
 - d) Subsection (4) requires generating entities to disclose beneficial ownership in accordance with the Companies Act, No. 17 of 2015.
 - e) Subsections (5) and (6) obligate purchasing entities to maintain and publish a register of EPAs and beneficial ownership data.
 - f) Subsection (7) empowers the Energy and Petroleum Regulatory Authority (EPRA) to withhold approval of non-compliant EPAs.

2.2.Alignment with Legal Frameworks

13. **Constitution of Kenya, 2010:** Article 201 sets forth principles of public finance including accountability, transparency, public participation, and prudent use of public resources.
14. **Public Procurement and Asset Disposal Act, Cap. 412C:** Governs procurement procedures applicable to EPAs.

15. **Companies Act, Cap.486:** Provides for the disclosure of beneficial ownership.
16. **Access to Information Act, Cap.7M:** Guarantees the public's right to access information including registers of EPAs.
17. **Energy Act, Cap.314:** The principal statute being amended to enhance governance in the energy sector.

2.3. Advantages of Enactment of the Bill

18. **Legal and Institutional Transparency:** The Bill imposes a mandatory disclosure regime, thereby fortifying anti-corruption measures and preventing the concealment of ownership through opaque corporate structures. This aligns with international best practices concerning beneficial ownership transparency.
19. **Promotion of Good Governance and Fiscal Responsibility** by anchoring procurement and contractual engagements within the framework of Article 201, the Bill ensures that energy-related public expenditure is managed prudently and with due regard to sustainability.
20. **Strengthening of Regulatory Oversight:** The conferment of discretionary powers upon EPRA to disapprove non-compliant EPAs enhances the agency's regulatory leverage and enables enforcement of compliance standards.
21. **Support for Renewable Energy Transition:** The prioritization of dispatchable and renewable energy sources in EPAs supports national commitments under the Paris Agreement and promotes environmental sustainability. This means that **Kenya's Nationally Determined Contributions (NDCs)** under the Paris Agreement commit the country to:
 - i. Reduce GHG Emissions By **32% By 2030**;
 - ii. Expand investment in **Clean and Renewable Energy Sources**, including solar, wind, hydro, and geothermal;
 - iii. Implement **Climate-Resilient Energy Infrastructure** and adopt measures to mitigate the carbon intensity of energy generation.
22. **Public Participation and Access to Information:** The Bill requires the publication of EPA registers and beneficial ownership on public platforms, thereby facilitating citizen engagement and oversight.

2.4. Disadvantages of Enactment of the Bill

23. **Increased Administrative and Compliance Burden:** The statutory requirements for feasibility studies, register maintenance, and beneficial ownership disclosures may overburden purchasing entities, particularly in terms of time, financial, and human resources.
24. **Risk of Delayed Project Implementation:** Enhanced procedural requirements and regulatory scrutiny may prolong the timeframes for negotiating and executing EPAs, potentially delaying energy generation projects.

25. **Legal and Contractual Uncertainty:** Existing EPAs that were entered into under the previous legal framework may become the subject of dispute or renegotiation, especially if they are inconsistent with the new statutory requirements.
26. **Institutional Capacity Constraints:** The effective implementation of the Bill will require institutional strengthening of regulatory and purchasing entities, which may not currently possess the requisite technical or administrative capacity.

PART III

3.0 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

27. Following the call for memoranda from the public through placement of adverts in the print media on Thursday, 15th May 2025 and vide a letters Ref: NA/DDC/ENERGY/CORR/2025/048 and Ref: NA/DDC/ENERGY/CORR/2025/077 dated 18th July 2025 and 1st October 2025 respectively inviting stakeholders for a meeting, the Committee received comments from the Ministry of Energy and Petroleum and Sosian Energy Limited.

3.1. Submissions by the Ministry of Energy and Petroleum

In a meeting with the Committee held on Tuesday, 29th July 2025, the Principal Secretary State Department for Energy made the following submissions on the Bill:

28. **THAT, Section 134A (1)** be amended to include both Energy and Power Purchase Agreements. ***Justification:** This commercial transaction is referred to as an energy purchase agreement in technical language. However, there is a difference between Energy in Megawatt Hour (MWh) and Power in Megawatt (MW) and thus while this is well intended, it could mean that the proposals restrict KPLC from entering into firm Power Purchase Agreement. Energy planning is done with regard to power not energy. Secondly, KPLC enters both into Power Purchase Agreements (PPAs) and Energy Purchase Agreements (EPA). Power plants are designed in MW not MWh. Essentially, PPAs ensure that power is available during the time is required while energy is a derivative of power. It is, therefore, proposed that the amendments should make reference to both Energy and Power Purchase Agreements.*

Committee Observations

The Committee observed that Section 134A(1) refers only to Energy Purchase Agreements, yet sector practice shows that Kenya Power routinely enters into both Power Purchase Agreements (PPAs) and Energy Purchase Agreements (EPAs). The Committee further observed that the two instruments are not identical: PPAs relate to the availability of power measured in megawatts (MW), while EPAs relate to the purchase of energy measured in megawatt hours (MWh).

Committee recommendation

The Committee recommends that the Bill be amended by inserting a new clause 1A that amends section 2 of the Energy Act, Cap. 314 as follows:

Section 2 of the Energy Act be amended by inserting the following definition in its proper alphabetical sequence—

29. “Energy Purchase Agreement” means a contract between a licensed power producer and an electricity buyer for the supply of energy measured in megawatt hours, and also includes a Power Purchase Agreement for the supply of power measured in megawatts, together with all related terms on pricing, delivery, obligations of the parties, and the duration of the agreement. **THAT, Section 134A (2)** be amended by deletion of proposed provision.

Justification:

The Constitution under Article 227, provides the guiding principle in public infrastructure development. In procuring the of goods and services a public entity shall do so in a system that is fair, equitable, transparent, competitive and cost-effective. These principles have been emphasized in both the PFM Act and the PPP Act.

Committee Observations

The Committee observed that the principles listed in the proposed Section 134A(2) are already fully provided for in the Constitution and existing statutes. Article 227 of the Constitution sets out the mandatory principles for public procurement of goods and services, including fairness, equity, transparency, competitiveness, and cost-effectiveness, which apply to all public infrastructure contracts, including energy and power purchase agreements. The Committee therefore found that restating these principles in Section 134A(2) is unnecessary and may create duplication. For this reason, the Committee recommends deletion of the proposed subsection.

Committee Recommendation

THAT, the Bill be amended in the proposed new section 134A by deleting subsection (2).

Justification:

The applicable constitutional and financial principles are already adequately addressed in existing legislation.

30. **THAT, Section 134A (3)** be amended by deletion of proposed provision.

Justifications:

The requirement for specific feasibility studies as a condition for the sign-off of energy purchase and power purchase agreements should be deleted provided that the agreements are in line with the Least Cost Power Development Plan and importantly driven by need for added power supply to the grid and not arbitrary contractual commitments;

Most power purchase contracts are done under the Public Private Partnership Act, Cap. 430 (PPP Act) including the framework under the Feed In Tariff Policy (FiT Policy), which has demonstrated its ability to manage and deliver contracts under very short timelines. It is important to note that the procurement regime proposed in these amendments and as contemplated under the Public Procurement and Assets Disposal Act, Cap. (PPAD Act) is principally for conventional procurement. The proposal for the requirement for the application of the PPAD Act in the procurement of power should therefore be deleted. The requirement for compliance with the Constitution and Public Finance Principles is good enough.

Committee Observations

The Committee observed that the proposed subsection (3) introduces procurement requirements that are already addressed under existing laws and policies governing the energy sector. The Committee further noted that feasibility studies for new power commitments are adequately covered through the Least Cost Power Development Plan, which guides system expansion and determines actual need. It also noted that most power purchase arrangements are undertaken within the framework of the Public Private Partnership Act, which provides an established and efficient process for procuring generation

projects, particularly those that are site-specific such as geothermal, wind, solar, and small hydros. The Committee found that applying the Public Procurement and Asset Disposal Act to such projects may conflict with the PPP Act and could undermine the effectiveness and timelines of energy procurement. The Committee concluded that the proposed subsection duplicates existing legal requirements and may create inconsistencies.

Committee Recommendation

THAT, the Bill be amended in the proposed new section 134A by deleting the subsection (3).

Justification:

To avoid duplication, legal conflict, and unintended disruption of established procurement processes under the PPP framework

31. THAT, Section 134A (4)(5) and (7) be amended to include Power Purchase Agreement.

Justification: *Comments outlining difference in energy and power purchase agreements.*

Committee Observations

The Committee observed that Section 134A(4) (5) and (7) refers only to Energy Purchase Agreements, yet sector practice shows that Kenya Power routinely enters into both Power Purchase Agreements (PPAs) and Energy Purchase Agreements (EPAs). The Committee further observed that the two instruments are not identical: PPAs relate to the availability of power measured in megawatts (MW), while EPAs relate to the purchase of energy measured in megawatt hours (MWh).

Committee Recommendations

The Committee recommends that the Bill be amended by inserting a new clause 1A that amends section 2 of the Energy Act, Cap. 314 as follows:

Section 2 of the Energy Act be amended by inserting the following definition in its proper alphabetical sequence—

“Energy Purchase Agreement” means a contract between a licensed power producer and an electricity buyer for the supply of energy measured in megawatt hours, and also includes a Power Purchase Agreement for the supply of power measured in megawatts, together with all related terms on pricing, delivery, obligations of the parties, and the duration of the agreement.

The introduction of the new definition cures the ambiguity.

3.2.Submissions by the Sosian Energy Limited

32. In a meeting with the Committee held on Thursday, 9th October 2025, the Managing Director, Sosian Energy Limited, Mr. Venu Gopal, submitted that the Company fully supports the Bill in its entirety without any amendments.

PART IV

4.0 COMMITTEE OBSERVATIONS

33. Having considered the Bill, the Committee made the following observations: **THAT;**

- 1) The Bill proposes the introduction of Section 134A to govern Energy Purchase Agreements (EPAs) with an emphasis on transparency, accountability, prudent financial management, and public participation;
- 2) The Bill aims to ensure greater transparency and accountability in the procurement of electric energy by requiring disclosure of beneficial ownership and adherence to the principles enshrined in Article 201 of the Constitution of Kenya. It endeavors to establish a statutory mechanism for regulating the conduct of EPAs between generating entities and licensed purchasing entities, including Kenya Power and Lighting Company.
- 3) Section 134A(1) refers only to Energy Purchase Agreements, yet sector practice shows that Kenya Power routinely enters into both Power Purchase Agreements (PPAs) and Energy Purchase Agreements (EPAs). The Committee further observed that the two instruments are not identical: PPAs relate to the availability of power measured in megawatts (MW), while EPAs relate to the purchase of energy measured in megawatt hours (MWh).
- 4) The principles listed in the proposed Section 134A(2) are already fully provided for in the Constitution and existing statutes. Article 227 of the Constitution sets out the mandatory principles for public procurement of goods and services, including fairness, equity, transparency, competitiveness, and cost-effectiveness, which apply to all public infrastructure contracts, including energy and power purchase agreements. The Committee therefore found that restating these principles in Section 134A(2) is unnecessary and may create duplication. For this reason, the Committee recommends deletion of the proposed subsection.
- 5) The proposed subsection (3) introduces procurement requirements that are already addressed under existing laws and policies governing the energy sector. The Committee further noted that feasibility studies for new power commitments are adequately covered through the Least Cost Power Development Plan, which guides system expansion and determines actual need. It also noted that most power purchase arrangements are undertaken within the framework of the Public Private Partnership Act, which provides an established and efficient process for procuring generation projects, particularly those that are site-specific such as geothermal, wind, solar, and small hydros. The Committee found that applying the Public Procurement and Asset Disposal Act to such projects may conflict with the PPP Act and could undermine the effectiveness and timelines of energy procurement. The Committee concluded that the proposed subsection duplicates existing legal requirements and may create inconsistencies.
- 6) Section 134A(4) (5) and (7) refers only to Energy Purchase Agreements, yet sector practice shows that Kenya Power routinely enters into both Power Purchase Agreements (PPAs) and Energy Purchase Agreements (EPAs). The Committee further observed that the two instruments are not identical: PPAs relate to the availability of power measured in megawatts (MW), while EPAs relate to the purchase of energy measured in megawatt hours (MWh).

PART V

5.0 COMMITTEE RECOMMENDATIONS

34. The Committee having reviewed the Energy (Amendment) Bill (Senate Bill No. 42 of 2023) recommends that the House **approves the Bill with amendments** as proposed below:

- 1) THAT, the Bill be amended by inserting a new clause 1A that amends section 2 of the Energy Act, Cap. 314 as follows:

Section 2 of the Energy Act be amended by inserting the following definition in its proper alphabetical sequence—

“Energy Purchase Agreement” means a contract between a licensed power producer and an electricity buyer for the supply of energy measured in megawatt hours, and also includes a Power Purchase Agreement for the supply of power measured in megawatts, together with all related terms on pricing, delivery, obligations of the parties, and the duration of the agreement.

Justification

To introduce the new definition that cures the ambiguity of whether a power purchase agreement is included in a energy purchase agreement.

- 2) THAT, the Bill be amended in the proposed new section 134A by deleting subsection (2).

Justification

The applicable constitutional and financial principles are already adequately addressed in existing legislation.

3. THAT, the Bill be amended in the proposed new section 134A by deleting subsection (3).

Justification

To avoid duplication, legal conflict, and unintended disruption of established procurement processes under the PPP framework.

4. THAT, the Bill be amended in the proposed new section 134 A by inserting the following new subsection immediately after subsection (7)—

“(8) A generating entity who, immediately before the commencement of this Act, had entered into an energy purchase agreement shall, within six months of the commencement of this Act, ensure full compliance with the requirements of this section.

SIGNED: DATE:

HON. DAVID GIKARIA, CBS, M.P.
CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON ENER

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 03 DEC 2025	DAY.
TABLED BY:	
CLERK-AT-TABLE:	

LIST OF ANEXURES

1. Adoption Schedule
2. Committee Minutes
3. Copy of Newspaper Advert
4. Submissions by Stakeholders



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FOURTH SESSION, 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON ENERGY

**ADOPTION OF THE REPORT ON CONSIDERATION OF THE ENERGY (AMENDMENT) BILL,
(SENATE BILL NO. 42 OF 2023)**

We, the undersigned Honorable Members of the Departmental Committee on Energy today Tuesday, 16th December 2025 do hereby affix our signatures to this Report on consideration of the Energy (Amendment) Bill, (Senate Bill No. 42 of 2023) to affirm our approval and confirm their accuracy, validity, and authenticity.

NO.	NAME	SIGNATURE
1.	The Hon. David Gikaria, CBS, MP -Chairperson	
2.	The Hon. Lemanken Aramut, MP – Vice-Chairperson	
3.	The Hon. Samuel Gonzi Rai, M.P.	
4.	The Hon. Charles Gimose, M.P.	
5.	The Hon. Elisha Odhiambo, M.P.	
6.	The Hon. Julius Musili Mawathe, M.P.	
7.	The Hon. Walter Owino, M.P.	
8.	The Hon. Tom Mboya Odege, M.P.	
9.	The Hon. Simon King'ara, M.P.	
10.	The Hon. George Omwera Aladwa, M.P.	
11.	The Hon. Victor Koech Kipngetich, M.P.	
12.	The Hon. Geoffrey Ekesa Mulanya, M.P.	
13.	The Hon. Cecilia Asinyen Ngitit, M.P.	
14.	The Hon. Barongo Nolfason Obadiah, M.P.	
15.	The Hon. Siyad Amina Udgoon, MP	



**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FOURTH SESSION, 2025
DIRECTORATE OF DEPARTMENTAL COMMITTEES**

**MINUTES OF THE 45TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
ENERGY HELD ON TUESDAY, 2ND DECEMBER 2025 IN THE COMMITTEE ROOM 22,
FIFTH FLOOR, BUNGE TOWER AT 10:00AM.**

PRESENT.

1. The Hon. David Gikaria, CBS, MP-Chairperson
2. The Hon. Lemanken Aramat, MP-Vice-Chairperson
3. The Hon. Charles Gimose, MP
4. The Hon. Elisha Odhiambo, MP
5. The Hon. Walter Owino, MP
6. The Hon. Tom Mboya Odege, MP
7. The Hon. Julius Musili Mawathe, MP
8. The Hon. Simon Kingara, MP
9. The Hon. Geoffrey Ekesa Mulanya, MP
10. The Hon. Victor Koech Kipngetich, MP
11. The Hon. Barongo Nolfason Obadiah, MP
12. The Hon. Cecilia Asinyen Ngiti, MP

APOLOGY

1. The Hon. Samuel Gonzi Rai, MP
2. The Hon. George Omwera Aladwa, MP
3. The Hon. Siyad Amina Udgoon, MP

**IN-ATTENDANCE:
COMMITTEE SECRETARIATE**

- | | | |
|------------------------|---|----------------------|
| 1. Mr. Fredrick Otieno | - | Clerk Assistant I |
| 2. Mr. Salim Athuman | - | Clerk Assistant III |
| 3. Mr. Brian Njeru | - | Fiscal Analyst II |
| 4. Ms. Brigita Mati | - | Senior Legal Counsel |
| 5. Ms. Rehema Koech | - | Hansard Officer |
| 6. Mr. Robert Langat | - | Research Officer III |
| 7. Ms. Viviane Juma | - | Intern Officer |
| 8. Ms. Mariana Angela | - | Intern Officer |

AGENDA:

1. Prayers
2. Preliminaries/Introductions
 - i. Adoption of the Agenda
 - ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising.
4. **Agenda: Consideration of the clause-by-clause amendments on the Energy (Amendment) Bill (Senate Bill No.42 of 2023) and the Adoption of the Report**
5. Any other Business
6. Adjournment/Date of the next meeting

MIN. NO. NA/ENERGY/2025/195: PRELIMINARIES

The Chairperson called the meeting to order at eighteen minutes past ten O'clock followed by a prayer. The agenda of the meeting was adopted as listed above having been proposed and seconded by the Hon. Walter Owino, MP and the Hon. Simon King'ara, MP respectively.

MIN. NO. NA/ENERGY/2025/196: CONFIRMATION OF MINUTES

The Minutes of the 43rd sitting held on the 11th November, 2025 were confirmed as a true record of the proceedings having been proposed and seconded by the Hon. Walter Owino, M.P and the Hon. Obadiah Barongo, MP respectively.

MIN.NO.NA/ENERGY/2025/197: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE ENERGY (AMENDMENT) BILL (SENATE BILL NO.42 OF 2023)

The Committee considered and unanimously adopted the Report with the following observations recommendations:

COMMITTEE OBSERVATIONS

Having considered the Bill, the Committee made the following observations: **THAT;**

- 1) The Bill proposes the introduction of Section 134A to govern Energy Purchase Agreements (EPAs) with an emphasis on transparency, accountability, prudent financial management, and public participation;
- 2) The Bill aims to ensure greater transparency and accountability in the procurement of electric energy by requiring disclosure of beneficial ownership and adherence to the principles enshrined in Article 201 of the Constitution of Kenya. It endeavors to establish a statutory mechanism for regulating the conduct of EPAs between generating entities and licensed purchasing entities, including Kenya Power and Lighting Company.
- 3) Section 134A (1) refers only to Energy Purchase Agreements, yet sector practice shows that Kenya Power routinely enters into both Power Purchase Agreements (PPAs) and Energy Purchase Agreements (EPAs). The Committee further observed that the two instruments are not identical: PPAs relate to the availability of power measured in megawatts (MW), while EPAs relate to the purchase of energy measured in megawatt hours (MWh).
- 4) The principles listed in the proposed Section 134A (2) are already fully provided for in the Constitution and existing statutes. Article 227 of the Constitution sets out the mandatory principles for public procurement of goods and services, including fairness, equity, transparency, competitiveness, and cost-effectiveness, which apply to all public infrastructure contracts, including energy and power purchase agreements. The Committee therefore found that restating these principles in Section 134A (2) is unnecessary and may create duplication. For this reason, the Committee recommends deletion of the proposed subsection.
- 5) The proposed subsection (3) introduces procurement requirements that are already addressed under existing laws and policies governing the energy sector. The Committee further noted that feasibility studies for new power commitments are adequately covered through the Least Cost Power Development Plan, which guides system expansion and determines actual need. It also noted that most power purchase arrangements are undertaken within the framework of the Public Private Partnership Act, which provides an established and efficient process for procuring generation projects, particularly those that are site-specific such as geothermal, wind, solar, and small hydros. The Committee found that applying the Public Procurement and Asset Disposal Act to such projects may conflict with the PPP Act and could undermine the effectiveness and timelines of energy procurement. The Committee concluded that the proposed subsection duplicates existing legal requirements and may create inconsistencies.
- 6) Section 134A (4) (5) and (7) refers only to Energy Purchase Agreements, yet sector practice shows that Kenya Power routinely enters into both Power Purchase Agreements (PPAs) and Energy Purchase Agreements (EPAs). The Committee further observed that the two

instruments are not identical: PPAs relate to the availability of power measured in megawatts (MW), while EPAs relate to the purchase of energy measured in megawatt hours (MWh).

COMMITTEE RECOMMENDATIONS

The Committee having reviewed the Energy (Amendment) Bill (Senate Bill No. 42 of 2023) recommends that the House approves the Bill with amendments as proposed below:

- 1) THAT, the Bill be amended by inserting a new clause 1A that amends section 2 of the Energy Act, Cap. 314 as follows:

Section 2 of the Energy Act be amended by inserting the following definition in its proper alphabetical sequence—

“Energy Purchase Agreement” means a contract between a licensed power producer and an electricity buyer for the supply of energy measured in megawatt hours, and also includes a Power Purchase Agreement for the supply of power measured in megawatts, together with all related terms on pricing, delivery, obligations of the parties, and the duration of the agreement.

Justification

To introduce the new definition that cures the ambiguity of whether a power purchase agreement is included in an energy purchase agreement.

- 2) THAT, the Bill be amended in the proposed new section 134A by deleting subsection (2).

Justification

The applicable constitutional and financial principles are already adequately addressed in existing legislation.

3. THAT, the Bill be amended in the proposed new section 134A by deleting subsection (3).

Justification

To avoid duplication, legal conflict, and unintended disruption of established procurement processes under the PPP framework.

4. THAT, the Bill be amended in the proposed new section 134 A by inserting the following new subsection immediately after subsection (7)—

“(8) A generating entity who, immediately before the commencement of this Act, had entered into an energy purchase agreement shall, within six months of the commencement of this Act, ensure full compliance with the requirements of this section

MIN.NO.NA/ENERGY/2025/198.ANY OTHER BUSINESS

The Committee was informed that:

1. Field Development Plan and Production sharing Contracts for Block T6 and T7 in South Lokichar Basin in Turkana County was laid on the table of the House on Thursday, 28th November 2025. Subsequently, the Speaker of the National Assembly referred it to the Departmental Committee on Energy. The Consideration of the Field Development Plan and Production sharing Contracts for Block T6 and T7 in South Lokichar Basin in Turkana County will involve stakeholder engagement and presentation of report to the National Assembly on Tuesday, 24th February 2026.

The Committee was taken through the proposed timelines for consideration of the Field Development Plan and Production sharing Contracts for Block T6 and T7 in South Lokichar Basin in Turkana County and subsequent activities.

2. The Committee was further informed of the planned post legislative dialogue on the Energy Act, Cap 314 scheduled for Thursday, 4th December 2025 at FourPoints by Sheraton, Hurlingham from 8:00am. Members were urged to attend and participate in the event.

MIN. NO. NA/ENERGY/2025/199: ADJOURNMENT

There being no other business, the meeting was adjourned at ten minutes to twelve O'clock. The next meeting to be held on notice.

Signed..... Date.....

(HON. DAVID GIKARIA, CBS, M.P. CHAIRPERSON)

