

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Tuesday, 27<sup>th</sup> February, 2024

*The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.*

*[The Speaker (Hon. Kingi) in the Chair]*

#### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Kingi): Clerk, do we have quorum?

*(The Clerk-at-the-Table consulted the Speaker)*

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

*(The Quorum Bell was rung)*

Kindly, stop the Bell. We now have quorum.  
Clerk, proceed to call the First Order.

#### COMMUNICATION FROM THE CHAIR

##### ONE-DAY RETREAT FOR ALL SENATORS

**The Speaker** (Hon. Kingi): Hon. Senators, I take this opportunity to inform you that the Senate Business Committee (SBC) has convened a one-day non-residential retreat for all Hon. Senators.

The retreat will be a follow-up on the two induction retreats that were held at the commencement of the 4<sup>th</sup> Senate in October and November 2022.

The objectives of this one-day retreat are as follows:

(1) Reflect on the performance and output of the Senate during the First and Second Sessions of the 13<sup>th</sup> Parliament, both in plenary and the Committees and identify opportunities and best practices for service delivery.

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(2) Identify challenges that have hindered the effective discharge of the mandate of the Senate as contemplated under Article 96 of the Constitution.

(3) Receive updates and deliberate on welfare matters, including the administrative aspects relating to the facilitation of Senators and the county offices, operation of the Senate Oversight Fund and the medical cover for Senators.

(4) Strengthen teamwork and collegiality among Senators in the discharge of work.

(5) Align on the priority agenda for the Senate during the Third and subsequent sessions of the 13<sup>th</sup> Parliament.

Hon. Senators, I, therefore, invite you to this Retreat which will be held on Monday, 4<sup>th</sup> March, 2024 at the Argyle Grand Hotel in Nairobi City County from 8.30 a.m.

The programme and any other information pertaining to the event will be circulated to all Senators through the Office of the Clerk. I urge all Senators to purpose to attend and participate at this very important event.

Consequently, all Select Committee activities scheduled for Monday 4<sup>th</sup> of March 2024, are hereby suspended.

I thank you.

Next Order.

## PAPERS LAID

### REPORTS ON NEW LOANS CONTRACTED BY THE GOVERNMENT OF KENYA

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Tuesday, 27<sup>th</sup> February, 2024-

Report to Parliament on all new loans contracted by Government of Kenya from 1<sup>st</sup> September, 2023 to 31<sup>st</sup> January, 2024.

### REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

Report of the Auditor-General on Financial Statement of the County Executive of Kilifi for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Assembly of Kilifi for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Kilifi-County Revenue Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Kilifi - Receiver of Revenue - Revenue Statements for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the Kilifi County Ward Scholarship Fund for the year ended 30<sup>th</sup> June, 2023.

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Report of the Auditor-General on Financial Statement of the County Executive of Nyeri for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Assembly of Nyeri for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Nyeri-County Revenue Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Nyeri - Receiver of Revenue for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the Nyeri County Health Services Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Nyeri - Receiver of Revenue for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the Nyeri County Executive Car Loan and Mortgage (Staff) Scheme Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the Nyeri County Executive Elimu Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the Nyeri County Executive Enterprise Development Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the Nyeri County Assembly Car Loan and Mortgage (Staff) Scheme Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Executive of Murang'a for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Assembly of Murang'a for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the Murang'a County Agricultural Farm Input Subsidy and Incentive Funds for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Government of Murang'a - County Revenue Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the Murang'a County Education Scholarship Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the County Executive of Nyandarua for the year ended 30<sup>th</sup> June, 2023

Report of the Auditor-General on Financial Statement of the County Assembly of Nyandarua for the year ended 30<sup>th</sup> June, 2023

Report of the Auditor-General on Financial Statement of the County Government of Nyandarua - Receiver of Revenue for the year ended 30<sup>th</sup> June, 2023

Report of the Auditor-General on Financial Statement of the Kirinyaga County Emergency Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the Kirinyaga County Executive Staff Car Loan Scheme Fund for the year ended 30<sup>th</sup> June, 2023.

Report of the Auditor-General on Financial Statement of the Kirinyaga County Executive Staff Mortgage Scheme Fund for the year ended 30<sup>th</sup> June, 2023.

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Report of the Auditor-General on Financial Statement of the Kirinyaga County Alcoholic Drinks and Substance Abuse Control Fund for the year ended 30<sup>th</sup> June, 2023.

Mr. Speaker Sir, I beg to lay.

*(Sen. Cheruiyot laid the documents on the Table)*

**The Speaker** (Hon. Kingi): Next Order?

## QUESTIONS AND STATEMENTS

### STATEMENTS

**The Speaker** (Hon. Kingi): Statements pursuant to Standing Order No. 53(1). Proceed, Sen. Joe Nyutu.

#### STATUS OF MEDICAL EQUIPMENT SUPPLIED BY MEGASCOPE TO LEVEL 5 HOSPITALS

**Sen. Joe Nyutu:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Health regarding the current status of medical equipment supplied by Mega Scope to Level Five Hospitals across the country; specifically, CT-Scan and X-Ray machines.

In the Statement, the Committee should-

(i) clarify the reasons behind the machines breakdown and the current status of their repair;

(ii) outline the Government's action plan to address the breakdown of these critical diagnostic equipment which have severely hampered healthcare services;

(iii) state the immediate measures taken to expedite the repair of these medical equipment and ensure that they are operational as soon as possible; and,

(iv) outline plans and interventions by the State Department for Medical Services to ensure that such incidents affecting service delivery in hospitals do not reoccur.

**The Speaker** (Hon. Kingi): Hon. Senator for Marsabit County, Sen. Chute?

#### DELAYED PAYMENT OF SALARIES AND NON-REMITTANCE OF NHIF DEDUCTIONS BY MARSABIT COUNTY GOVERNMENT

**The Speaker** (Hon. Kingi): Sen. Chute is not in the House. That Statement is dropped.

*(Statement dropped)*

Hon. Senator for Taita Taveta County, Sen. Mwaruma?

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## LAND BOUNDARY DISPUTE IN TAITA TAVETA COUNTY

**The Speaker** (Hon. Kingi): Sen. Mwaruma is not in the House. That Statement is dropped.

*(Statement dropped)*

**The Speaker** (Hon. Kingi): Let us go to the next Statement by Sen. (Prof.) Tom Odhiambo Ojienda.

PAYMENT OF HARDSHIP ALLOWANCE TO  
TEACHERS IN NYANDO SUB-COUNTY

**The Speaker** (Hon. Kingi): Sen. (Prof.) Tom Odhiambo Ojienda is not in? That Statement is dropped.

*(Statement dropped)*

*(The Clerk at-the-Table and Sen. Cheruiyot  
consulted with the Speaker)*

Proceed, Sen. Fatuma Dullo.

OPERATIONS OF ISIOLO COUNTY  
REFERRAL HOSPITAL MORGUE

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Health concerning the operations and state of the Isiolo County Referral Hospital Morgue.

In the Statement, the Committee should explain-

(i) the immediate action that the county is taking to resolve the ongoing crisis at Isiolo Morgue where during the last one year, four machines have broken down, leaving 32 bodies unrefrigerated causing a severe health hazard;

(ii) explain why the morgue has not been operational for the past year despite Isiolo County Health Department receiving the highest budget allocation;

(iii) outline steps, if any, that the county is taking to ensure the facility is efficiency and capacity is improved; and,

(iv) finally, recommend the immediate closure of the facility as the county seeks a lasting solution to the changes facing the morgue.

I thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, at this juncture, allow me to rearrange the sequence of today's Order Paper so that we deal with the Motions. We have three Motions starting with the one under Order No.11.

Clerk, please, proceed to call that particular Order.

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**MOTION****ADOPTION OF REPORT ON INQUIRY INTO HIGH  
COST OF ELECTRICITY IN THE COUNTRY**

**Sen. Wamatinga:** Mr. Speaker, Sir, I beg to move the following Motion-  
THAT, the Senate adopts the Report of the Standing Committee on Energy on the inquiry into the high cost of electricity in the country laid on the Table of the Senate on Wednesday, 27<sup>th</sup> September 2023.

Mr. Speaker, Sir, the Committee on Energy undertook an inquiry whereby we looked at the distribution, generation and consumption of electricity in Kenya.

According to the Kenya Bureau of Standards (KeBS) and Economic Survey of 2023, about 87.5 per cent of all electricity generated in this country is from a renewable source. Indeed, a good performance in comparison with other countries, especially in the wake of economic climate change and the need to align the goals of renewable energies with consumption.

The Committee looked into the arrangements for independent power generation in the country. We realised that the Kenya Electricity Generating Company (KenGen) being one of the producers of electricity, generates about 70 per cent of the energy that we consume whereas the private power producers produce about 30 per cent. However, the 30 per cent takes about 70 per cent of the cost that we pay the reason being that most of these independent power producers were conceived at a time when the country needed to breach the gap between the demand and the supply.

In most cases, this was done to the disadvantage of the consumers with an arrangement that is famously known as the take or pay. This leaves us in a disadvantaged position because whether we degenerate or consume, we still end up paying.

Mr. Speaker, Sir, the country has made big strides in terms of generation and exploring the possibility of using renewable energy. However, the infrastructure that has been put in place has not been in alignment with the development such that the distribution is not even in all parts of the country. As a result, the Committee found it good to recommend the establishment of several distribution lines, especially from the wind generation in Marsabit County down to Suswa.

We also came to realise that we lack redundant power lines. Therefore, blackouts that have been lasting at times up to 24 hours have been witnessed in the country in the last few months. This can be solved if the Government invests in multiple distribution lines so that power can be dispatched. Again, overreliance on one substation in Suswa has become a major impediment in this country. As a result, we need to relook at the distribution of power.

That is why the Committee recommended that Kenya Electricity Transmission Company (KETRACO) and Kenya Power must be disengaged so that one will have the responsibility of supplying power while the other one will have the responsibility of having administrative control.

The Committee also looked at the existing independent power producers' licences and the possibility of them negotiating so that they can reduce the cost of power. We

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realised that some of these agreements have been cast in stone; they cannot be changed, therefore, disadvantaging the consumers. As a result, the Committee found it fit to encourage the Government to get into other new arrangements whereby we can relook at, especially those who are using diesel to generate power.

We know that the Kenya Kwanza Government has undertaken to increase the arrangement of affordable housing. This will also mean that there will be increased demand for power. It is, therefore, imperative that we look at the effect of lack of supply. If we have the challenges that we are having today and look at the country-integrated processing parts that are part of the agenda of the Kenya Kwanza Government, we know that the demand for power is going to rise. Therefore, we must look at the generation, distribution and most importantly, the reliability of power.

For us to find out where some countries in this part of the world are where power becomes unreliable, we must relook at the power that we are using. That is the reason why the Committee on Thursday this week will be going to Kilifi County so that we can look at the possibility of having modern power technology like nuclear energy.

If we do not address the issue of power today, it is important to note that we will not be able to achieve most of the Sustainable Development Goals (SDGs) because industrialization, affordable housing and improved supply of power will mean that we need to have an alternative source of power that is reliable and most importantly, environmentally clean.

Mr. Speaker, Sir, we also realised that most of the power purchase agreements were generated at a time when the country was in a vulnerable situation. Therefore, the suppliers had the advantage over the consumers. We need to look at this situation.. To be able to provide Kenyans with cheap power, we have to import power from neighbouring countries like Ethiopia and Uganda.

Moving forward, it is also important that we develop our own strategic sources of power. The Committee realised that geothermal has good potential. Out of the 3,800 megawatts that we consume, we realised that geothermal can give us up to 10,000 megawatts. Currently, we are only getting 30 per cent of the power that we produce from geothermal.

We have laws that were put in place several decades ago, especially for diesel-generated power whereby we also realised that the requirement that we have a reserve of heavy oils by these producers is punitive. Since the cost of diesel is a pass-through cost, it makes power an expensive undertaking in this county. For us to make it affordable, we must start looking at the possibility of retailing some of the thermo plants so that we can not only give Kenyans green energy, but also affordable.

It is quite interesting to know that the cost of nuclear-generated power goes to about US\$2 per kilowatt/hour whereas the diesel generated goes for about 20 times as high as that.

The Committee also looked at the management, accountability, transparency and governance of most of the state departments that are responsible for the distribution and generation of power. We realised that there is a need to start looking at how the procurement of these institutions is undertaken. Most importantly, we realised that it is also imperative for us to put systems in place so that we can increase transparency and

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accountability. This was also seen as one of the major impediments to the cost of power. We lose a lot of money through transmission losses and forex adjustments. Most of these are things that can be associated with accountability and governance issues.

Mr. Speaker, Sir, the Committee also looked at the companies that have been mandated to supply power. We realised that some of these contracts were skewed towards producers of power, most of them 20 years long. Moving forward, there is need to look at how we moderate power purchase agreements between the private sector and the Government. These costs can be avoided if that is done in the right way.

Finally, Mr. Speaker, Sir, the Committee also agreed that it is important for us to mitigate the 26 per cent transmission losses. The international best practice is about 9 per cent, yet in this country, it is 26 per cent, but they do not do anything. If we mitigate transmission losses, we could bring down the cost of power by about 10 per cent. These are the low-hanging fruits that we can realize within a short time.

As I wind up, I would like my colleague, Sen. Abbas, to second.

**Sen. Abbas:** Mr. Speaker, Sir, I would like to second the Motion. As the Chairperson has said, the Committee has done a lot of work in the sector. There are many illegal connections and that has caused us a lot of problems.

As you are aware, 87 per cent of this country is connected. However, in most parts of the country like Wajir, Marsabit, and other places in northern Kenya where we come from, people use generators and that is expensive. That also causes a lot of inconveniences. We requested the Ministry of Energy and Petroleum to have those areas connected, especially with green energy.

What we found is that transmission of power is costly in this country because of wayleave problems. As the cables pass through various counties, extra charges are made on transmission lines and that increases the cost of production. Many people make money out of it. As a result, a contractor is faced with many challenges. It also takes time to connect some places. There is a power line from Lake Turkana Wind Power going to Suswa which has taken time. It has been delayed because of interventions by various settlements and towns where transmission cables pass through. As a result, a lot of money has been paid and that has caused a delay.

Another challenge is that power metres have problems. Suppliers of power metres also delay. Many people have paid for power metres and they have not been delivered.

*(Sen. Orwoba consulted with Sen. Miraj)*

**The Speaker** (Hon. Kingi): Sen. Orwoba, kindly, take your seat.

*(Sen. Orwoba resumed her place)*

Proceed, Sen. Abbas.

**Sen. Abbas:** The Committee also found that IPPs make this country to use a lot of money. You will find that agreements are signed for 20 or 30 years and there is no way you can terminate a contract.

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Sometimes power is not consumed, but you will find Kenya Power billing people. They say that energy supplied by KenGen or from windmills cannot be stored. Therefore, you either use or leave, but you still have to pay for it. That has cost this country a lot of money. Something needs to be done.

Generally, the cost of power in this country is expensive because of various overhead costs. This country is supposed to be industrialized by 2030. We should have many production industries by then. However, because of the cost of power, most multinational companies are leaving this country. It is high time we improved on our power production.

Mr. Speaker, Sir, with those few remarks, I beg to second the Motion. I thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, I will now proceed to propose the question.

*(Question proposed)*

Sen. Maanzo, you have the Floor.

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to contribute to this important Motion.

From the report, it is clear that the cost of living is also affected by the cost of power because the cost of power goes into manufacturing and many other things.

In Kenya, and following the recent rainfall, we highly rely on production of power mainly from rivers. With excess rainfall, you expect the cost of power to go down.

We have proposed High Grand Falls Multipurpose Dam along Tana River between Tharaka Nithi and Kitui counties. That could save the country from the high cost of electricity in future.

We also have Thwake Dam in Makueni, which is now 90 per cent completed. Unfortunately, it has been delayed due to low funding. Although it is funded by international bodies, there have been delays in processing money for the dam by the National Treasury.

We have wind and other sources of power. There is also a proposal to have atomic energy plant in Kilifi. Atomic energy is not used in many parts of the world. There are quite a number of countries where it is being used. It has been successful but it has its dangers.

I am aware that public participation involving the locals is going on. I do not think only the locals should be involved in public participation. The whole country should be involved, so that everyone gets to know exactly the pros and cons or dangers and advantages, so that we produce power in the country which will help to lower the cost of power because it is one of the things that inhibit development of a country.

I have heard that agreements are cast in stone. I beg to disagree with the committee completely. In this country, we should not have agreements that are cast in stone between one state organ and another when it comes to providing services to the people.

The Constitution of Kenya is supreme, unless some of the agreements are done by cartels or people who want to hold the country hostage. This Senate has the power to deal with cartels. We should ask for those agreements to be brought here so that we debate on them. If possible, we should even pass a law dealing with those agreements. The argument that they are cast in stone cannot be sustained.

I urge the Government to keenly look at the matter of the cost of electricity. I am sure it can be considered, considering the heavy rains that we had. It should be noted that Uganda also supplies Kenya with power.

There has been general disorganisation of the whole power supply chain in this country. It is high time all the state organs and parastatals dealing with power realised that power is important for the development of this country, production of goods, industrialization and movement of goods.

We are talking about solar power and having cars and motorbikes which are propelled by electricity and can be recharged. However, when you do a comparative analysis within the region, that is Uganda, Tanzania, Rwanda, and Kenya, you will realise that our neighbours have cheaper electricity than us. To make matters worse, even the power supply is not constant. Many times, people are forced to invest in generators if you have a serious installation like this. However, that should never be the case. The power should be constant, consistent and cheap enough to be afforded by the ordinary Kenyans.

It has become quite expensive, for those using tokens because of the taxes levied on power. Kenyans are suffering and some do not have power even when there is supply.

Mr. Speaker, Sir, we do not have sufficient power supply in the country. We need to have power lines running to every constituency and village in the country. This will be the beginning of industrializing. The country together with providing self-employment for those who do welding, run salons together with many others in areas where power is required.

In my opinion, the committee has done very well. However, a lot more needed to be done to make sure that we have cheaper power in the country. To make strong proposals to the Government to deal with those who are regulating and adding the cost of power mainly the taxes without consulting anyone. You just wake up and find the electricity bill has doubled or tripled.

Mr. Speaker, Sir, this has gone to the same argument of high cost of living. If power bills are lowered, we shall begin cushioning Kenyans in terms of the cost of living. Therefore, I urge the Senate and the Government to take this matter seriously, consult the relevant authorities and go on to lower the cost of living by lowering the cost of power.

I do not agree with this Report totally. We need to go back and consider the whole policy again and make sure that the power cost is lowered for Kenyans.

I thank you.

**The Speaker** (Hon. Kingi): Proceed Sen. Mungatana.

**Sen. Mungatana, MGH:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to debate this Motion. At the very beginning, I state that I support this Motion. This inquiry was to lay bare to Kenyans why there is high cost of electricity.

The Standing Committee on Energy went out of its way to carry out this inquiry. One of the things that Kenyans need to know is that at some point in this country, there

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were very shady agreements which were entered into that committed this country to long-term repayment periods with independent power producers. The justification for the people sitting in Government at that time was that it was better to have expensive agreements rather than not have power within Kenya.

Mr. Speaker, Sir, KLPC limited was committed and saddled with very heavy and long-term burden of debt. If you look at some of the agreements - when the inquiry was taking place - you can see a clear trend of officers within Government who were talking or having back agreements with the IPPs to the disadvantage of the Kenyan people.

Kenyans must know that the Senate Standing Committee on Energy has revealed in this Report that, in fact, there were very unconscionable agreements that caused this country to pay heavily for electricity. These are long-term agreements that have saddled us with heavy electricity charges.

Mr. Speaker, Sir, these officers were in the Ministry of Energy and Petroleum and they enjoyed their time there. They made those agreements. Some of them very unconscionable against the Kenyan people yet nothing happened to them.

At the very end, one of the recommendations of the Report states that the Ethics and Anti-Corruption Commission (EACC) together with the Directorate of Criminal Investigations (DCI) should undertake investigations to establish the criminal liability of public officers involved in the irregular and unlawful behaviour.

If you go all the way to Recommendation 229, you will see that there were those mentioned adversely in cases that went to court. For example, the Environment and Land Court (ELC) Civil Suit No.163 of 2014 of Meru County.

Some of the parcels of land were also irregularly acquired. People sat in that Government and made unconscionable decisions against the people of Kenya. They made millions and billions of shillings and they walked away freely. This Report is trying to say that those former Government officers who used to sit in the Ministry of Energy and Petroleum should not be left alone.

We want this to be given serious priority. Recommendation 224; the KPC Limited is saddled with Kshs38 billion debt burden. This comes from the type of agreements which were entered into in those days. These public officers may have collected Kshs1 billion, Kshs500 million, Kshs200 million or Kshs100 million, but a few years down the road, they committed a public utility company to the tune of Kshs38 billion debt; that we, as Kenyans, must pay.

I simply agree with that recommendation. My prayer is that the Ministry - as we transmit this to the EACC and DCI - shall go back and look at those Cabinet Secretaries, Permanent Secretaries (PS), Chief Executive Officers (CEOs of KPC that were there in those days who committed these long-terms agreements. They should do a thorough job so that Kenyans can possibly seize some of the property so that we can start offsetting this debt by KPC.

Mr. Speaker, Sir, there is another issue that came from this Report. That the Ministry of Lands and the county governments need to work out a way in which the parcels of land which have been given out for purposes of securing transmission are given titles where necessary. The Ministry incurs a lot of expenses through KETRACO limited. At the end of it, you find that those expenses are not justified. This Report is

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coming down to the whole process of acquisition. There is a lot of darkness around how acquisition of land is done.

Again, this speaks to the cost of electricity. Once payments are made, they have to be recovered from somewhere. This reflects on the bills we have to pay so that we sustain the electricity we consume. We also need to check that the proper - and this report recommends - standardized procedures are followed when monies are being paid so that wayleaves are obtained when land is being acquired for purposes of transmission. You will find in some places there is high exaggeration of these costs yet in some, there are hardly any payments that are given. When there is exaggeration in acquiring those wayleaves, this cost translates to the cost per unit of electricity, which must be streamlined, as per this Report.

KETRACO and KPC have different functions and roles. When we experience power blackouts, people claim that KPC is responsible. However, those of us who are knowledgeable in the energy sector will note that Kenya has a very unstable system for power transmission.

The time has come for deliberate investment. This Report says that we need to invest in transmission so that we stabilize the system. Without stabilization of the transmission system, we will continue to have blackouts. The Senate of this Republic has identified in this Report that there is a need to rehabilitate some of the transmission lines.

Regarding Recommendation No.209, the Senate directs that KETRACO set aside a percentage of its budget to rehabilitate and maintain old transmission lines. This is the only way we can, genuinely and honestly, deal with the problem of blackouts. For as long as the transmission system is unstable, we will continue to have blackouts.

Four areas need urgent attention as far as stabilization of this transmission system in Kenya is concerned. I will mention maybe two. There is need - and this Report recommends - that the proposed 400/220KV Mariakani Substation be completed within three months, energizing Suswa to Mariakani through Isinya. Therefore, it will enable more geothermal power to be generated and to flow to Mombasa.

Mombasa is an important town which has its fair share of blackouts. What most Kenyans and the people of Mombasa may need to learn is that the cause of the blackouts is a lack of completion of the Suswa-Isinya line. The problem is traced to the lack of stability in power transmission.

This Report has indicated at least four major lines that need to be finished to have stable transmission. Sometimes, we make noise that KPC is the problem, while the issue is KETRACO. As long as the transmission system is unstable, we will continue to have an unstable electricity supply.

It may cost this country a lot to stabilize. However, in the end, the investment that is required now is the one that will stabilize the transmission and help reduce the cost of power.

In the future, the Senate needs to note that the Fourth Schedule states that -

“The functions and powers of the county include –

County planning and development, including, electricity and gas reticulation and energy regulation.”

This is not a function of the national Government, but that of the counties. It is time for us to think of restoring the power of gas and energy reticulation and regulation to the counties. This is what the Constitution says. However, what do we have? Fourteen years after the passing of the Constitution, we still have the same setup of KETRACO, KPC and other energy setups within the country that are not compliant with the Constitution.

We must find a way in which this role can be played effectively by the counties. In Tana River, power is only connected to the town areas, not the hinterland. Counties that are far-flung in this country have not been given power because this role that was supposed to be for counties is not being managed by the counties.

I would like to use the Floor of the House to ask the Ministry of Energy and Petroleum to find a way to transfer this function back to the counties effectively and efficiently so that counties that have the most disadvantaged populations can access electricity.

With those many words, I support this Report by the Committee on Energy.

**The Speaker** (Hon. Kingi): Sen. Olekina, proceed.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise to support this Report. Since I serve in the Committee on Energy, I would like to focus on our recommendations. I plead with my colleagues to take time and read this Report.

Once you read it, you will realize that the Senate Committee on Energy concentrated on finding solutions to our problems in terms of cost of energy. Let us sit here, argue, discuss and try to find out why electricity is expensive in this country, making everything else costly. We must focus on specific, time-bound recommendations to achieve something.

One of our recommendations has to do with restructuring the debt owed by KPC to local financial institutions. KPC borrowed the loans in US dollars. They got the loans at the rate of 6 per cent plus liable. When you calculate, this will be about Kshs7.5 per cent. With the inflation, this will be 10 per cent in US\$.

You have seen the way the dollar exchange rate has been dancing around. All that cost is transferred back to the citizens of this country.

The Committee proposed a timeline on what needs to be done to address the issue of the Kshs38 billion that KPC owes to local financial institutions that loaned the money in US currency. The Kshs38 billion can only be reduced if KPC considers converting the loan from commercial banks to the international loans they borrow.

The cost of electricity is a result of the contracts that were signed. I heard my brother, the good lawyer from Makueni, arguing that those contracts are not cast in stone. We understand contracts. If one party amends a contract, it will involve litigation. I do not believe that this House has the power to pass legislation to amend a contract. We should look at the terms of the IPPs contracts.

What is making electricity expensive - and I thank the Chairperson for literally highlighting it in his moving notes - is the cost of the thermal energy.

If you look at the amount of power that we produce with thermal energy in this country, it is 12.5 per cent. Nonetheless, that is the most expensive. That is why, in the

Committee on Energy, we recommended that we focus heavily on geothermal. If we focus on geothermal, we will be able to reduce the cost of electricity.

Mr. Speaker, Sir, the other part that I hope that we can focus on is mostly investing heavily in renewable energy, focusing not only on geothermal, but also on solar energy.

Mr. Speaker, Sir, with the current statistics that we have, we are only producing about 3 per cent in solar energy. If we have firms in this country or industrial plants that produce a lot of their products during the day, why not think of trying to invest heavily in solar energy?

If you go through the recommendations, there are recommendations that have got timelines of about 60 days. The biggest challenge we have is that we do not have an Implementation Committee.

I hope that the clerks this time around will be able to continue doing the good job that they do, but also find a mechanism whereby the Committee on Energy can report to this House on a self-implementation mechanism on what happens to these recommendations.

One recommendation is on KETRACO, setting up a budget, to be able to improve their transmission lines - what makes electricity expensive in this country is dilapidated electricity lines. If you have electricity lines, which are dilapidated, the cost of power will go high.

Mr. Speaker, Sir, last week, I brought a Statement here focusing on the issue of Narok County. If you go to Narok County as an example, you will find that Rural Electrification Authority (REA) has invested a lot of money in trying to finish the last mile connectivity, but those transmission lines have never been completed. In one area, you will find either faulty transmitters, the other area you will find a lot of electric poles lying around with cables, in fact, even becoming dangerous to the community. Therefore, these recommendations that we gave are very important.

I do not know whether we would be able to force the IPPs to lower the cost of the electricity that they sell to KPC. I think we need to bring them on the table, negotiate, mediate and find a way to reduce the cost.

There is one recommendation which we will need a lot of support from the Turkana and Marsabit counties. This is the issue of the land which has got the largest solar wind power in Africa where we get the Lake Turkana wind power.

I know in the Committee, we made recommendations that the DCI investigates so that we can finally report to this House that the issue of that land has been resolved.

Mr. Speaker, Sir, these thermal plants use a lot of oil. One recommendation that we gave is to ensure that the Heavy Fuel Oil (HFO), which is bought, will help reduce the cost of electricity. If it is not bought together, electricity will still be very expensive. I hope that the Ministry will pursue.

There is a recommendation given for KPC to publish the owners of all the IPPs, it is given 60 days. Those 60 days, if we do not follow through, there is no way that we can get that information so that, we bring these people on the table, negotiate with them to lower the cost of electricity.

One of the things that we have to do is to find a way to deal with the cost which is being passed on to the consumers. When a power line is not working - and this why I differed with my Committee a little bit - it is not only the issue of KETRACO to be able to fix their transmission line, but also KPC and REA.

We have to find a way where we sit down with the Ministry and discuss on how to bring all these parties on board. This will ensure that if there is a line that has been built by REA, before that electricity is transferred to KPC for them now to start charging, there is a mechanism of understanding at what point was that line functional or not functional.

Currently, if you call REA, they will tell you we handed this over. However, if you demand to be given information on when they handed over to KPLC, it becomes what in Kiswahili we call *kizungumkuti*.

Mr. Speaker, Sir, I believe we have an opportunity and I want to encourage my colleagues that even if you have not read the Report on all the work that the Committee on Energy did, just focus solely on the recommendations. If you do so, you will be able to understand because these are things that we deal with on a daily basis.

Mr. Speaker, Sir, there is absolutely no reason as to why Kilgoris and Emurua Dikirr would not have electricity for 24 hours and no one worries about it. There is no reason as to why, when you come to Narok North, there is no electricity for three or four days and nobody cares about it.

We have many schools and healthcare facilities in this country that have no power. The only way that we will be able to get power to them is if we will all work together to reduce the cost of electricity so that, KPC can then get some money to extend electricity to other parts of the country which are dark.

In conclusion, I want to reiterate, that it now behooves all of us, not only the Committee on Energy, but all the 47 elected Senators, to look at this Report and understand where it affects their own counties. From there, let us now begin lobbying.

Mr. Speaker, Sir, in most cases, you will find that the Members of the National Assembly are the ones who lobby. They are the ones who have got a budget and go to REA or the Ministry. I think it is now a national duty and it behooves all of us, as Senators, also to be mindful of our own entire county.

You will find that in a county like Narok, for instance, we have six constituencies. In those six constituencies, Narok East has the highest connectivity. Why? This is because the Member of Parliament for Narok East, hon. Lemanken Aramat, is a Member of the Committee on Energy in the National Assembly. He is aware and he is able to move around and lobby for electricity to be connected. However, if you go to Emurua Dikirr, the Member of Parliament for that constituency has only managed to connect the constituency with 20 per cent of electricity.

Consequently, you will find like about 67 schools have got no power, including the health facilities. I, therefore, think as Senators, we now need to go beyond the call of duty. We need to ask ourselves, what will Kenya look like when everywhere is connected with electricity?

These reports normally come, we do a very good job, we spend a lot of taxpayers' money, but if we do not follow through, the reports end up just collecting dust. You ask yourself, what did you do?

I know tomorrow, on Thursday, the Committee on Energy is going to Kilifi to deal with this issue of nuclear power and to discuss with the residents of that area. If we cannot solve a problem of making sure that at least power or renewable energy is there, are we will be able to deal with issue of nuclear energy?

Mr. Speaker, Sir, I want to end by reiterating on the importance of this report. Let us not waste time reading too much of it, go straight to the two pages. When you make your contributions here, I want to beseech you, my brothers and sisters, let us find a way that we can put this Ministry to task.

Those who sign deals which are very expensive with the IPPs, I agree with the Report that they should be taken to task. We have to find a way.

Nothing surprises me nowadays with this Government, which is able to turn stones into bread. So, if we can negotiate by whichever means possible, for the cost of the Independent Power Producers (IPPs) to go down, that would mean more power to us.

I will be happy when Kenya Power Company (KPC), with the Ministry of Energy focuses on completing the Narok Transmission Line.

I live in Narok. In most cases, we resort to using gensets and solar because that transmission line is unstable. One of the recommendations is, if we complete that line and Suswa Transmission Line, we will have solutions for the entire country.

I am happy that we are now not depending on thermal plants only. The cost of electricity is high because we are not concentrating on what needs to be done. Fuel prices are very high and all that is passed on.

Mr. Speaker, Sir, I insist that the Office of the Auditor-General must audit the loans, particularly which were taken from Equity Bank, Stanbic Bank and all these money lenders in USD currency.

The terms of those loans must be made public because you cannot take a loan at 6 per cent plus, liable. It makes it very expensive for us to service those debts unless we are trading in US dollars.

If you convert Kenya Shillings into US dollars, and then you pay that loan, you will realise that if you are paying Kshs3000 for your electricity in a month, you will now be paying Kshs30,000.

Mr. Speaker, Sir, with those few remarks, I support.

**The Speaker** (Hon. Kingi): Sen. Cheruiyot, proceed.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I rise to support this Report by our Members of the Standing Committee on Energy. It is a very important topic. I must admit that this Committee has attempted to handle the difficult task conclusively in some areas, and they could do better in some of the issues that were raised. Nonetheless, the job is worth commending.

I commend the Standing Committee on Energy, led by Sen. Wamatinga, and the entire team that worked on this Report. They sat down, listened to all these stakeholders that they have listed for us; the Energy and Petroleum Regulatory Authority (EPRA), the



Independent Power Producers (IPPs), Kenya Electricity Generating Company (KenGen) and all these players in the energy sector.

Mr. Speaker, Sir, you will appreciate that power and the conversation on its cost is one sticky issue that we have gone around as a country for many years. Unfortunately, we have been unable to resolve.

In my earlier years in this House, I served in the Standing Committee on Energy. On many occasions, we had conversations around many of these topics.

I must commend this Committee, that despite the limited powers of the Senate in some of the issues that they are attempting to resolve, they have taken bold decisions and guided the House in bold proposals, which I believe, if properly implemented, can help reduce the cost of energy.

Kenya continues to face challenges of being globally competitive in its attempt to industrialise on account of many issues. Top on the list is the cost of power and how this affects manufacturing. One of the reasons why many institutions struggle to set up manufacturing industries locally is the cost of power.

I must appreciate that with the coming into place of this administration and the gazettelement of certain special economic zones, like what was launched previously under the Green Energy Initiative in Naivasha, companies will begin to troop in.

However, this conversation of energy is not just about attracting investors into the country. It is also about ordinary citizens who use electricity to shower, iron and do basic things. This is because it affects the ordinary *mwananchi* and the people that we represent in this House.

Therefore, I appreciate and believe that is the basis upon which this Committee has focused specifically on KPC as an enabler, and one of the institutions which if properly reformed, can bring down the cost of power.

There is a point of departure that I hold with many of the Members of this House. I do not agree with the insistence of the formation of an implementation committee. This Report is an example why you cannot have an implementation committee.

You cannot have the Standing Committee on Energy listen to all those presentations on technical issues, do a report that has far-reaching implications such as what has been proposed here and then you ask them to give the same report to a particular group of Senators and expect that they will have the same depth of understanding as the primary Committee that sat down and understood those issues.

It is on that very point that I continue to oppose the formation of an implementation committee.

I strongly agree with those who argue alongside me that the best placed Committee to handle the work of any nature in this House, is a line Committee of that particular sector.

Mr. Speaker, Sir, in these issues on energy, there is no way you can form another committee and expect them to be adept at the issues that are being raised, such as, Heavy Fuel Oil (HFO) generators, IPPs, terminate with the other country, and expect that they will have the understanding to follow up with the same zeal and energy as Members of the Committee. The same can be said of all other issues and sectors.

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I felt that I should make a comment on that issue. This is because I have heard many of our colleagues speak to this issue in their contribution before getting to the general recommendations of the Report. They ask what is going to happen and who is going to follow to ensure that the recommendations are implemented. For example, who is going to follow to ensure compliance on Recommendation No.206, which says-

“Within 14 days after the adoption by the Senate, the Ministry of Energy should disclose the full identities of beneficial owners of the IPPs, including companies listed as shareholders in foreign jurisdictions.”

Mr. Speaker, Sir, it is upon the Standing Committee on Energy to sit again two weeks after we have passed this Report. They should demand that from Ministry of Energy and Petroleum because the Senate made a resolution. Resolutions of the House are not suggestions. They are binding and have legal implications.

I expect that when Sen. Wamatinga sits down with his Committee two weeks after the passage of this Report, they will be demanding for answers from the Ministry of Energy and Petroleum. This is because the Ministry of Energy and Petroleum will be sufficiently supplied with this Report and all that has been said and whatever is expected of them.

The same can be said of Kenya Electricity Transmission Company (KETRACO), Kenya Pipeline Company (KPC), KPC, EPRA and all these institutions that they have been instructed to do one thing or the other. Therefore, it is important that the Standing Committee on Energy carry their baby into maturity.

The second recommendation, which I agree with, is on the issue of thermal power plants. Those of us that have followed this conversation have noted the many times each Cabinet Secretary has come before this House and informed us of the cost to produce a kilowatt hour which goes to about USD0.40 or 0.05 or something close to that. I do not want to be specific about it because I do not have the figures off the top of my mind. However, it is about two times what it cost to produce on hydro, and perhaps 3 or 4 times what it cost to produce on other cheaper means like the geothermal. Why do we continue to be bound by contracts that are completely lopsided and only favor the investors in this area? This is something that we need to resolve as a House.

I had expected that this Committee will guide us. This Committee boasts of very senior lawyers, including the assistance of the legal team of Parliament. It was my anticipation that they will guide the country through this Parliament. They could have told us what we are going to do with this particular contract.

I do not believe that we are helpless the way this Report would wish to suggest in that particular regard. There is something that the people of Kenya can do.

We have a contract that makes it so expensive for the ordinary citizens of Kenya to access power. Is it that this contract has no exit clauses? I thought every contract has conditions that if you feel it is no longer tenable or favorable to you, upon certain notices and such things, there should be ways and means of exiting.

The same can be calculated and the Government should bear the cost of those that signed these agreements. However, to pass the same cost to the ordinary citizens and the poor people that we represent in this House is completely unfair.

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I believe, on that regard, the Committee needs to do better and must guide the House in unravelling that mystery.

Mr. Speaker, Sir, Recommendation 208 points out certain specific lines that need to be completed. The reason we keep on mentioning these lines is that; for the two times that we had the national blackouts, we were told that it was because of overload on some of those lines. If these lines were completed, we would not be where we are today. They include the Turkwel-Ortum-Kitale Line and the very famous Narok-Bomet Line.

Though it may not be admitted publicly, load shedding happens unofficially, that, in certain peak times of the day, you will just find power disappearing. Of course, it may be because some of those citizens may not be as noisy as the others in certain quarters of the country or may not have access to social media and all those things and people do not notice. However, there are parts of this country that are persistently in darkness on many afternoons and certain days of the week.

The Kenya Electricity Transmission Company Limited (KETRACO) has also been pointed out to be responsible for some of these challenges, especially, on the issue of maintenance of certain old lines which contribute to either blackouts or make it so expensive to evacuate power. They have been asked to come up with a better plan for rehabilitation and maintaining these lines.

There was a Gazette Notice on the 21<sup>st</sup> December, 2019 where KETRACO was to be designated as the system operator within 31 days. That needs to happen as soon as possible so that we can conclude on that particular issue.

Still, on this issue of plans, Recommendation No. 214 states:

“That all thermal plants install flow meters to monitor the consumption of HF4 and report to the Senate the progress within 60 days”.

This is so that we can tell whether this claim of how many litres the owners of these thermal plants continue to make and whether the cost of maintaining those thermal plants is genuine or not. This can only be known if we have a scientific way of measuring.

I expect that the Members of the Committee on Energy, who are part and parcel of this House, shall feed us this report within 60 days as they have recommended in this Report.

Recommendation 217 states that:

“KPLC to issue a 30 days’ notice on intention to terminate PPA with Africa Geothermal International Limited due to inactivity on the area and report to the Senate within 45 days of the adoption of the Report”

Again, part of the capture of our energy sector that has happened in the last few decades is where people with briefcase companies walk in and are either given exploration licenses for geothermal or are asked to set up a solar plant. Five or 10 years down the line, you find that they have not been any activity.

I appreciate the Committee for pointing out this particular contractor. If they were handed over a site and many years down the line, they have never been able to do a single activity, what is the Ministry still waiting for? I am sure if the same had been given to a competent and genuine business entity and not brokers such as this, they would already

have brought the power to the line. We would not be relying on Ethiopia and Uganda today to import power.

It is on account of such briefcase companies that we continue to have reliance of power on other countries. Would you for a second, imagine if today, we had a local or domestic issue within the East African region, and some of our neighbors denied us power? Do you know the kind of economic crisis that we will find ourselves in? This is an issue of national security. The same should be discussed.

I do not know how the good and very sharp Members of the Committee on Energy missed out on companies that have also been awarded geothermal exploration licenses. For more than 20 years, some of them have not been able to move a spoon of soil. They continue to hold those licenses in various capitals of the world pretending they are investors. Those are the people who are making us as a country energy insecure. I expect that the Departmental Committee on Energy will crack hard on such institutions.

Mr. Speaker Sir, finally, it is on the issue of wayleave. You do know how difficult and expensive it was to evacuate power from Loyangalani to Suswa on account of this particular issue of wayleave alone. You understand this country. We are all Kenyans and we know how we behave most of the times.

If today engineers design a particular power line going to places such as Vihiga or Busia where Sen. Okiya Omtatah comes from, even before those programmes leave the Ministry of Energy and Petroleum, people will have bought land along that particular line so that they can sell it to the Government exorbitantly. It was on that account that we passed the Land Valuation Bill in this House in 2018. Therefore, I believe those speculators have little business to do.

Nonetheless, some people continue to frustrate public interest projects on account of this particular point that has been raised. Therefore, the National Land Commission (NLC), Ministry of Energy and Petroleum, county governments and other relevant stakeholders must come up with guidelines that will cause the acquisition of wayleaves to reduce these challenges. This is because that is an alive issue.

We know many people that built even grass-thatched little huts but were charging the Government more that Kshs5 million to get them off the wayleaves. There is nothing called Government, it is me, you and the people that we represent in this House. This is corruption of the highest order.

Therefore, I expect that these particular regulations will form part and parcel of the regulations that will be passed alongside the 27 pending regulations by EPRA in accordance with the Energy Bill that we passed in 2019. To date, EPRA has unfortunately not been able to pass those recommendations of the Energy Bill.

Curiously though, colleagues in the Departmental Committee, you never gave EPRA a period within which to pass these regulations. This is a law that we passed more than five years ago in this House. We participated and had long debates with them. I served in the Committee on Energy at that time and we had a lot of time with all these stakeholders. I expected that the Committee would give EPRA a timeframe within which to gazette those 27 recommendations.

I hope that, even after the passage of this Report and as you exit these recommendations and ask the various State actors to do that which they need to do so that

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ordinary Kenyans can enjoy the economies of scale, you will ask EPRA to do the same expeditiously in as much as you have not asked of them to do within a particular period.

Mr. Speaker, Sir, there is mention of the Ethics and Anti-Corruption Commission (EACC) and Directorate for Criminal Investigations (DCI) to look into how some of these contracts were entered into. I do not know how much progress we will make in that if we have not been able to do it in the last 10 or 20 years. However, I am still optimistic.

Our colleagues should follow up and tell us if they are successful at it so that people can be diligent. When you are a holder of a public office, particularly those who enter into contracts on behalf of the people of Kenya, they need to know that they act on behalf of all of us. Should they be careless, they should be charged for the dereliction of duty and putting Kenyans in losses. It is something that should be charged, and people need to be punished so that they are careful next time.

With those very many remarks, I support and congratulate Members of the Committee on Energy for this well-done Report. I suggest that they carry on board the improvements that I have made as well as the suggestions that have been given by other Members.

I support and thank you.

*(The Clerk-at-the-Table consulted the Chair)*

**The Speaker** (Hon. Kingi): Sen. Wambua, you may have the Floor.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. From the onset, let me join my colleagues who have spoken before me in congratulating the Standing Committee on Energy, led by my friend and brother, Sen. Wamatinga, on coming up with a fairly comprehensive Report on the inquiry into the high cost of electricity in the country.

I will make very brief and targeted remarks on this Report as I declare from the onset that I do support it.

My first comment is on the first recommendation of the Committee listed as 206; that within 14 days after adoption by the Senate, the Ministry of Energy and Petroleum should disclose full identities of owners of IPPs, including companies listed as shareholders.

It is okay to make a disclosure of the people and companies that own these IPPs but that disclosure on its own does not help a lot in bringing down the cost of electricity. It does not matter whether it is Mr. "X" or Company "Y" that owns an IPP if the final cost of the product is beyond the reach of the consumers.

I perused through the Report and there is a recommendation that Kenya Power should get into agreements with IPPs that can give fair pricing of their products when certain thresholds are met. My view, and I know this is the view of most people, is that we should look for a way of terminating all deals with all IPPs.

It should not be lost on us that perhaps apart from Kenya Airways (KQ), Kenya Power is the only existing mega monopoly in this country; producing power to every consumer of electricity in every corner of this country. Why Kenya Power gets into losses or it is unable to produce enough when they are doing it without competition is

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something one can never understand. Instead of getting into deals with IPPs, Kenya Power should invest in efficiency.

It is laughable for the nation to be talking about venturing into nuclear energy, which is a delicate but clean energy. If we are unable to handle the traditional ways of producing electricity for our people, how can we dream of going the nuclear way?

It is okay to have the disclosure but what is it for? Let us disclose and begin a process of terminating contracts with IPPs. If it becomes evident that Kenya Power cannot be profitable, then we should kill the monopoly and register other companies and entities to produce electricity for the country. That will create competition.

It should also be remembered that there is conversation around Kenya Power and their ability or inability to produce affordable electricity for consumers in this country. Article 204 of our Constitution establishes the Equalization Fund. The drafters of our Constitution have realised that access to affordable electricity is a basic requirement for development.

They are also saying that the Equalization Fund should go into basic services, including electricity, roads, water and health. So central is electricity to the development of any area in this country that it should bother us as a House that today we are discussing lack of access to affordable electricity when we have a monopoly that has been operating for long.

*(Sen. Veronic Maina consulted Sen. Wamatinga)*

Mr. Speaker, Sir, lastly on the recommendations by the Committee--- I would like Sen. Wamatinga to hear this but Sen. Veronica Maina is distracting him. There is a recommendation listed in 226 which says that where applicable, Kenya Power should utilise restricted tendering. I oppose that recommendation for a reason.

We should encourage open tendering for procurement of almost every public good. The reason we do open tendering is so that people get value for money. When you start talking about restricted tendering for Kenya Power which is already enjoying a monopoly, then you are compromising the principle of value for money.

Instead of pushing for restricted tendering for Kenya Power, why not push for investment efficiency within Kenya Power and all its departments, so that we do not have a situation where we procure over 4,000 transformers and almost all of them blow up after connection?

The issue, especially, of procurement of transformers by Kenya Power is a matter I would have loved to see direct recommendations on in this Report. This country has been treated to many games when it comes to procurement of transformers either by the Kenya Power, the Kenya Electricity Transmission Company Limited (KETRACO), the Rural Electrification and Renewable Energy Corporation (REREC) or an entity that procures transformers.

Mr. Speaker, Sir, with those few remarks, I am in support of this Report, but those issues need to be looked into.

I thank you.

**The Speaker** (Hon. Kingi): Proceed, Sen. Kisang.

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**Sen. Kisang:** Mr. Speaker, Sir, I rise to support this Report by the Committee on Energy.

I am the Vice Chairperson of the Committee. We took a lot of time to do this inquiry because last year, there was an outcry over the cost of living as a result of the cost of power in the country.

Between 1999 and 2009 when there were serious blackouts in the country, the then Government, in its own wisdom, decided to engage IPPs to supplement generation of electricity in the country. We suspect that the then civil servants, especially those who were in the Ministry of Energy, colluded with IPPs to sign contracts and agreements that are difficult to terminate.

Most Members who have spoken here have said that we need to terminate those contracts and agreements. We went through all the agreements and there is no exit clause. It was like having Public-Private Partnerships (PPPs) to generate power. The contracts have a fixed time to generate power.

Most of them are between 20 and 25 years. There is nothing we can do with those agreements because IPPs could have gotten offshore loans and invested. The country cannot terminate them. If you terminate, you will be forced to pay for the remainder of the time of the agreement. That is why they are very expensive. All these loans were denominated either in euros or dollars. That is why any slight change in the weakening of our currency becomes very expensive to supply power to Kenyans.

Mr. Speaker, Sir, one of the reasons we said in the first recommendation that we need to know the owners of these particular companies within 14 days is because we want to know those culpable. If they are those who were in power or in office at that particular time, then the recommendation on Ethics and Anti-Corruption Commission (EACC) and Directorate of Criminal Investigation (DCI) coming in will now effect.

We suspect some of the Permanent Secretaries (PSs) or the Ministers at that time decided to form offshore companies and engaged a few international partners to fleece Kenyans. It is good to inform Members so that they know one of the reasons why we want to know the real beneficial owners of these companies.

We have also made recommendations that will easily reduce the cost of power. There are three main lines: Turkwel-Ortum-Kitale. It will, basically, sort out the Western part of Kenya because it will stabilise the grid and reduce the cost of power. The thermal unit within that area could be retired because Kenya Power and Lightning Company (KPLC) told us that they use thermal power to do uptake, which is picking power. These are not expensive lines.

The Ministry of Energy and Petroleum and Kenya Electricity Transmission Company (KETRACO) had promised us before that some of these lines would be complete by last year December and others by May this year. We, as a Committee, are following it up very closely to ensure resources are allocated so that these lines are completed.

The line between Narok and Bomet will open that region. There is very expensive thermal power in Muhoroni. When this line of Bomet-Narok is completed, the thermal power plant by Kenya Electricity Generating Company PLC (KenGen) that is in

Muhoroni will be retired and will reduce the cost of power. It costs about 54 cents as compared to the renewable energy we can get at 4 cents, 7 cents to around 9 cents.

Mr. Speaker, Sir, my colleagues have talked about the thermal power. We have engaged and luckily, most of the thermal plants are remaining with less than 10 years, with some being 5 and others 4. We have also given proposals for this particular engagement between KPC and Independent Power Producers (IPPs) who are still generating using thermal to convert to Liquefied Natural Gas (LNG) so that they can be given additional years and reduce the cost of power for our people.

A few years ago, on the same thermal plant --- we are told that KPC are the ones who approve the purchase of Heavy Fuel Oil (HFO). So, KPC demands that all IPPs store HFO that can last close to 2 years. It is very expensive.

We have given a recommendation they can convert to LNG. Kenya power should also discuss with this IPPs and maybe buy in bulk. When buying in bulk, the economy of scale will crop in and the cost of HFO will reduce. Since HFO is one of the costs built to the customer, when it reduces, the cost of power should go down and our people can benefit.

Mr. Speaker, Sir, we also have an issue with wayleave, which other Members have also mentioned. You will be told that while Standard Gauge Railway (SGR) was being built, one person would be paid Kshs50 million for an acre on that wayleave of SGR. If, for example, my plot is next to Sen. Sigei's he will be paid maybe Kshs20 million while I am paid Kshs50 million and another person Kshs100 million.

Therefore, we need to ensure the Land Value Index Act that was passed is implemented so that we do not have speculators who buy land and collude with the National Land Commission (NLC) to inflate prices. Imagine an acre of land at a place like Marsabit at Kshs50 million. Where on earth would you buy a land for Kshs50 million in that part of the country? It is basically corruption. We need to rain on these speculators who want to steal from Kenyans.

Mr. Speaker, Sir, these three lines for a long time - The ones we have also discussed with KETRACO, the Mariakani sub-station. We want the Ministry of Energy to allocate resources to complete that substation so that Kenyans in that part of the country can enjoy green energy.

There are many things we have said here, and we want to promise as a Committee that after the adoption of these report; we will pursue at if some of these things are not done within 14 days, others within 60 days and 90 days. I agree with the Leader of Majority that there is no need for an implementation committee. The Standing Committee are the ones with knowledge and memory of what they will have done. It will be upon us as a Committee to write to the Ministry and follow up. Otherwise, if we give to another committee, they will struggle to follow up.

Mr. Speaker, Sir, I urge our Members to support this report. We will ensure that we pursue the Ministry and KPC so that the cost of power goes down. In fact, we had expected this report to have been passed last year so that the cost of power would have gone down by December last year. However, since we did not pass it, I believe with its passage this week, we will now embark on monitoring and ensuring that KPC and the Ministry follow all these things so that our people can benefit because we are now

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struggling. It is cheaper to import power from Ethiopia, yet we have capacity to produce 10,000 Megawatts from geothermal. There are those who have been allocated blocks as speculators and have not generated.

We have recommended that the Ministry of Energy and Petroleum terminates all licenses that have been given out to people who have overstayed and would not have done anything on those blocks. We will pursue on Energy and Petroleum Regulatory Authority (EPRA). Some of the challenge that they tell us when we meet them is that some of the regulations have stayed for too long at the Attorney General's office.

We will be writing to the Attorney-General's office to ensure that regulations sent there need to be released quickly. I remember even in the last Parliament, we had close to third regulations by the Communication Authority of Kenya (CAK) that lied in the Attorney-General's office without being released. Maybe we need to give timelines as part of the amendment of this report as it has been said by Members.

Thank you. I request and urge my colleagues to please assist us to pass this Report. We will ensure that the cost of power soon goes down.

**The Speaker** (Hon. Kingi): Proceed, Sen. Omogeni.

**Sen. Omogeni:** Mr. Speaker, Sir, thank you for giving me an opportunity to also make my contribution to this report. I have no hesitation in supporting this report because I am adversely affected by the inefficiencies of power generation.

I begin by thanking Sen. Wamatinga, the Chairperson of this Committee. I declare my interest that once this Report is fully implemented, I will be the first beneficiary.

Mr. Speaker Sir, Sen. Cheruiyot and I get power from one line with the substation in Chemosit. That one line with 132,000 KVA supplies five counties including Kericho, Nyamira, Kisii, Migori and Homa Bay.

Often when there is high electricity demand, especially in the evening, you get what they call power loading. We are forced to be switched off because this one line cannot supply all consumers in those counties. So, I suspect that if Sen. Cheruiyot is in Kericho, he will tell Kenya Power to switch off the people of Nyamira in the evening.

I hope that recommendation number three, that the 132 KV; Narok- Bomet line be completed within the next year should be implemented as soon as yesterday. This is the line that will reduce the overload from those five counties. Hopefully will be separated from Kericho and maybe Homabay so that we can have enough power in the County of Nyamira.

Often, I get complaints from many of the people who live in the County of Nyamira especially those who reside in Borabu Constituency. They get switched off at the peak hours of doing business. Those who have workshops cannot generate enough income every day because of power outages.

I hope that the Ministry that participated when the Committee was undertaking this exercise will fully partner with Kenya Electricity Transmission Company Limited (KETRACO), Geothermal and ensure that these recommendations are implemented.

Mr. Speaker Sir, secondly as a country, we need to make some hard decisions. The idea of Kenya Power having a monopoly does not serve the interest of this country. This is a matter that has been debated year in, year out but we have not made hard decisions.

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Unless we allow competition - I expected that recommendation to be in this Report - Sen. (Dr.) Khalwale, Sen. Mungatana, and Sen. Kisang' - unless we kill monopoly and allow competition, we will always have these problems of high electricity tariffs.

We can learn from other jurisdictions. During the Great Depression in the 1930s in the United States (US), President Roosevelt opened up the industry in 1933, and he allowed for the setting up of the Tennessee Valley Authority. One of the tasks of the Tennessee Valley Authority was to generate affordable power to the people of Tennessee Valley.

You know that the decision by President Roosevelt increased the number of customers that were connected to electricity to millions. As we speak today, the cheapest power supply to the national grid in the US comes from the Tennessee Valley Authority. That is what we need to do because when you bring in competition, you can have competitive prices. All we need is cheap power.

Members of this Committee, you will be surprised that if you purchase units worth Kshs.200, you will only get 3.7 units of electricity. That is extremely costly.

I urge this Committee which has done a fantastic job to go a step further if this issue is to be implemented. There is the suggestion that we should kill monopoly, open the industry to competition so that we can have cheaper power supplied to our people.

On the issue of what the Ethics and Anti-corruption (EACC) should do on investigations, it is really sad. You know, some of our parastatals especially Kenya Railways (KR), lost lots and lots of land in prime areas including Upper Hill and Parklands areas, because people just came and grabbed houses that belonged to KR.

This recommendation that you have made for the National Land Commission (NLC) to ensure that it works with EACC to recover or to ensure that it protects land that Kenya Power owns is very good. I hope that this one will be taken seriously.

In brief, so that I do not take a lot of time, this is very good work. In conclusion, Kenya Power has literally stolen from Kenyans. You have made a recommendation that the Auditor-General should audit Kenya Power financial statements and obligations and their billing software. This is the most eye-catching recommendation for me.

There was even a case that was filed in court and orders were given to the effect that Kenya Power was stealing from Kenyans but nothing happened. Let us have an in-depth audit.

If we get that there is evidence that leads to some fraud; deliberate stealing from poor Kenyans on billing, there should be a recommendation that money should be recovered from KPC and we refund poor Kenyans.

Sen. Mundigi, there are people from Embu who have been robbed. This audit by the Auditor-General, if there is one thing that you need to ensure that is fully implemented, it is this suggestion to allow the Auditor-General to audit and see the billing. If there was any fraud, if there is money that has been stolen from Kenyans, it should be recovered.

This is good work, Committee Members. We thank you for this and we hope that this report will not be put on the shelves to gather dust. This good work should see the

light of day. You should report back to us and tell us that the work that was done by the Committee headed by Senator of Nyeri has brought some smiles to the faces of Kenyans.

Thank you.

*[The Speaker (Hon. Kingi) left the Chair]*

*[The Deputy Speaker (Sen. Kathuri) in the Chair]*

*(Interruption of debate on Motion)*

## COMMUNICATION FROM THE CHAIR

### VISITING STUDENTS FROM EGERTON UNIVERSITY

**The Deputy Speaker** (Sen. Kathuri): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students from Egerton University in Nakuru County. The delegation comprises six students who are in the Senate for a one-day academic visit.

Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf wish them a fruitful visit.

I thank you.

Hon. Senators, it is also important to note that I was also a student at the Egerton University. So, I also welcome them to the Senate. I am saying that I am a former student of this important University.

*(Applause)*

So, Sen. Tabitha Keroche?

**Sen. Tabitha Keroche:** Mr. Deputy Speaker, Sir, let me also take this opportunity to welcome the students from Egerton University in Nakuru County. Happy to have you here today. I wish you all the best. Whatever you learn from here, may it help you achieve what you are looking for.

Thank you, so much for visiting the Senate. We are so proud. This is the 'Upper House'. You will learn a lot.

This is where we legislate the laws that are favourable to our people especially our people in Nakuru County. When you go home, tell them we are here *na tumesimama imara* to ensure that all is going well in our counties. *Asante*. We will meet when I come down to Nakuru.

*(Resumption of debate on Motion)*

**The Deputy Speaker** (Sen. Kathuri): Sen. Tabitha Keroche, can you take your few minutes to contribute to this Motion.

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**Sen. Tabitha Keroche:** Thank you, Mr. Deputy Speaker, Sir, for the opportunity. I also stand to join the other Senators who have spoken before me to congratulate the Committee on Energy on the Report on the inquiry into the high cost of electricity in the country.

One of the things in the Kenya Kwanza Manifesto was industrialisation. I know if the cost of electricity is lowered, it will encourage more investors; both local and foreign, to build more industries in our country. This Report is good work done by the Committee.

Going forward, I can see light at the end of the tunnel where electricity will be lowered and we will ensure that now we have more industries in our country so that we can create more employment and wealth for our people.

If you look at the Report, you can see according to the Kenya National Bureau of Statistics, Economic Survey of 2023, about 87.5 per cent of all electricity generated in the country is from renewable energy and 43.6 per cent is from geothermal. We all know geothermal is found in Nakuru County, particularly in Naivasha. In this Report, they should include that Nakuru County should be supplied power at a lower cost compared to the other parts of the country.

Narok County is enjoying their Maasai Mara and Turkana County is enjoying the oil. So, even Nakuru County should enjoy the geothermal that comes from there. The national Government earns Kshs15 billion from that geothermal. The Constitution says 25 per cent should remain at the county. We are talking of Kshs3.75 billion that should be our own source revenue in addition to what we collect.

I believe that is what we will be pushing for. That is what we should have in this Report to ensure that we do not leave Nakuru County just like that since we are the ones who contribute 50 per cent of the power that we use in the whole of Kenya.

Mr. Deputy Speaker, Sir, mine is only to congratulate the Committee and to urge them to ensure that they take on board those points that we are adding so that everybody feels well represented and should not feel like they have been left out.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Sen. Sifuna, please proceed.

**Sen. Sifuna:** Mr. Deputy Speaker, Sir, as you are aware, I am a proud Member of the Committee that is led by Sen. Wamatinga. I wanted to calm the nerves of my colleague, the Senate Majority Leader, that indeed, we have serious Members in that committee. Some of the concerns that were raised have been addressed in that Report. He must have missed a few of those recommendations. In fact, we did interact with the spectre that you highlighted of people who are holding contracts for years on end without having done anything on the ground.

At Page 56 of the Report, you will see Recommendation No.217 that KPC issues a 30-day notice of intention to terminate a Power Purchase Agreement (PPA) of such companies. So, Majority Leader, you should rest assured that we interacted with these issues.

Even on the question of renegotiation of contracts, you will see at Recommendation No.211, we have given the Ministry of Energy and Petroleum and KPC

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time to renegotiate some of the PPAs. I will be happy to disclose to you that many of those Independent Power Producers (IPPs) are not averse to those re negotiations.

We do understand the contractual obligations that we got ourselves into are a bit restrictive in terms of what we can do and how far we can go. However, I am happy to report to this House that, that is a conversation that all those IPPs are willing to have with us.

Mr. Deputy Speaker, Sir, when we began this conversation, we had one of the hustlers in my office purchase some units of electricity. At that time, they bought units of Kshs100. Out of the money that was paid, it is only Kshs49 that went to buying actual power. That tells you that Kshs51 or 51 per cent of the amount you spend on electricity goes to taxes and levies. That is where the conversation begun.

Out of that Kshs100, Kshs49 is the amount that got this hustler 3.9 units of electricity. This is back in 2022 when VAT accounted for Kshs12.2. The largest component of levies and taxes was that component of the Bill titled Fuel Energy Charge which at that time, was at a whooping Kshs28 out of Kshs100.

That is where the focus of the Committee begun. We wanted to understand how we can reduce some of these charges. This is because in our minds, reducing some of those charges would directly result in the cost of electricity going down.

You will see another item there being the forex charge which was at Kshs6 then. There was also a charge for Energy and Petroleum Regulatory Authority (EPRA) and Water Resource Authority then inflation adjustment of Kshs2.61.

When we began this conversation, and I report to this House that if you want to know that the energy sector took note of this particular inquiry, after our inquiry begun, KPC stopped publishing the bills in the broken-down version that we used to receive because then it was easy for Kenyans to focus on where the pinpoints are.

Many of my colleagues have spoken to the issues we engaged with. First, I would like to start with the question of transparency. The spectre of IPPs came about in the late 2000's and early 2010's following the drought that we had that resulted in electricity shortage. The Government then decided that in order to ramp up our capacity, we need to open up this particular industry to the private sector for us to have other generators coming on board. What we experienced is that the suspicion is there.

I repeat it is a suspicion that most of these companies are owned beneficially by people who were then in the Ministry at that particular moment in time. They cut themselves some very sweet deals; some lasting 20 to 30 years and it is very difficult for us to wriggle out of them. The most interesting thing, I give the example of all the IPPs we spoke to. If you look at Page 11 of the Report, there is a company called Triumph Power. Triumph Power is the only one of those IPPs who appeared before us that is fully owned by Kenyans and their names are known.

It is also not a coincidence that because they are the only ones who are fully owned by Kenyans and their identities are known, that they are the least dispatched company on our grid. That means they are the ones whom KPC buys the least power from. The Report tells us that the dispatch is at 5 per cent of their generation capacity. When you look at those two factors, you will know that transparency is a critical issue in our energy sector.

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What did the Committee do?

Mr. Deputy Speaker, Sir, I am very grateful, that out of the conversation we had, the Committee is also supportive of a legislative amendment, a Bill that I am sponsoring, to bring transparency, requiring that there be disclosure of beneficial ownership of all the companies who are supplying electricity to Kenyans. In fact, if you do not disclose, then you cannot do business with KPC or any other uptaker of electricity.

Secondly, there is something called capacity charge. When I will be moving that Bill, I will explain a bit more. There is a charge for just about every person or every entity that has signed an agreement with KPC, whether they are selling power to KPC or not.

This is because this capacity charge is exactly what it says it is. It is for their ability to supply that capacity. That it is there, even when you are not utilizing it. We have expended resources and we have been told about the loans in this sector being denominated largely in foreign currency. So, they have provided that capacity and we have all to pay.

If you add just one IPP to the grid today, through a Power Purchase Agreement (PPA), you will see the cost of electricity going up. This is because of that capacity charge, that you have added extra capacity, whether Kenyans are buying power from that particular plant or not.

Then there is the question of transparency in the purchase of electricity from all these IPPs. As you have been told, the bulk of the electricity we produce is from green sources, which are cheaper.

However, at the point of the decision-making, the dispatcher at KPLC is sitting there and has a view of all the power producers in the country. He or she can say that they will put Triumph Power online, switch off the geothermal or put on Lake Turkana Wind Power. At that particular moment in time, the decision has to be made to avail electricity that is the cheapest to the consumer. That does not always happen.

We had a conversation with a gentleman from Lake Turkana Wind Power. The PPA between KPC and Lake Turkana Wind Power provides for a discount of 50 per cent of the cost of electricity from Lake Turkana Wind Power if a certain threshold is hit.

They sat us in this chamber, and they told us that in fact, KPC has never utilized that discount that is available for them. They have said that on many occasions they are curtailed, which is, to be told to reduce your production and the amount of power that you are putting onto the grid. This is because they want to give preference to the expensive thermal sources, which they claim are more stable.

Mr. Deputy Speaker, Sir, if you speak to the players in this sector, they will tell you that the stories that you hear from KPC about baseload and intermittent suppliers of electricity, are all part of a scheme to make sure that Kenyans do not benefit from the cheapest available electricity.

So, you will see when the Bill comes before this House, that we have tried to tie the hands of the dispatcher. That in dispatching electricity, priority must be given to the cheapest sources of electricity, such as the Lake Turkana Wind Power.

Then there is a question of completion of transmission lines. Some of my colleagues have spoken about this issue. It appeared to us quite ridiculous that are known

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straightforward solutions for the completion of certain power lines. For instance, the Turkwel-Ortum to Kitale Line that is supposed to evacuate power from, not just Turkwell, but also some of the projects that have been put there in terms of renewables like solar.

Here is my disappointment in going through some of the proposals that have been brought before this House in the Budget Policy Statement (BPS). I have here the document that was presented to the Standing Committee on Energy. This is the brief of the 2024 BPS in the medium term.

There is a very big difference between all the previous BPS in the last few years and the ones for 2024. If you look at the BPS of 2021, I will give an example. You will see a clear commitment from the Government to build 3,082 kilometers of additional transmission lines.

A specific target is given even in terms of kilometers of the transmission lines to be built. Then you can be able, as a House, to even follow up and audit. They said they are going to connect an additional 2.4 million new households; that is 2021. However, when you look at the language of the BPS this year, you will not get that specific. You will not be told how many kilometers of the transmission line are going to be built and how they are going to be prioritized.

So, what we want to do as a Committee is, we are in a difficult situation as a country. However, we have gotten ourselves committed to very expensive PPAs, and there are limited options. I heard the Senate Majority Leader saying there are lawyers in this Committee, they should tell us.

My position in that Committee during those deliberations, I know as a lawyer that if a contract is unconscionable, you have the right to terminate it.

I am convinced that those contracts are unconscionable, and a bold decision needs to be taken. However, as I have said, these IPPs are willing to sit down and renegotiate some of those contracts but for us, we will push for greater transparency in this sector.

As I told you, most of these contracts have already run for 10 or 15 years and some of them are coming to an end. I urge the current administration, and this is something the Committee was very clear on, to not renew some of these agreements, especially the ones that are being run using heavy fuel oil.

Some of the players came to us and said, "Sen. Sifuna, this plant can still produce electricity. It has a few more good years in it and there is no need for you to scrape it".

If they are not going to scrape those plants, then we should obtain concessions from them in terms of the pricing of electricity from those plants. However, the current administration should be very hesitant to renew any of those contracts because I feel that they are unconscionable.

I urge my colleagues that when that amendment Bill to the Energy Act comes before the House, they support it. We had the opportunity to listen to a few stakeholders because that Bill went through public participation.

Some people are saying, the recommendations are not deep enough. That we have not done justice to the issue. However, I want people to understand the limitations within which the Committee was operating. As I said, we have already tied our hands in terms of the duration of those contracts and the prices.

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Also, sitting in this Committee is very interesting because you get to know things. As of now, counties owe KPC Kshs3.5 billion. Out of that, Kshs2 billion is owed by Nairobi City County.

I will stand here another time, trying to argue for greater resources for Nairobi City County, because we are very unique. We are running a bill of Kshs2 billion on electricity alone. We have unique needs that other counties like Nyandarua might not be experiencing.

I will ask for little extra money for Nairobi City County. This is because the Senator for Nyandarua also enjoys driving around at night with lights on. He would like that when he is going home, the route to his home is lit.

Allow us in Nairobi City County to get extra resources to pay off these bills, so that they do not remain in our books and continue appearing there as liabilities for this power utility that is KPLC.

With those many remarks, I thank you.

I beg to support this report.

**The Deputy Speaker** (Sen. Kathuri): Thank you, Sen. Sifuna.

Next is Sen. Wakili Sigei.

**Sen. Wakili Sigei:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to also add my voice to the report by the Standing Committee on Energy.

From the very onset, I confirm that I support the Report by this Committee. This is for the obvious reason of the centrality of electricity and energy within our sectors of production or in our households, where, without electricity, we are limited in how much we do.

The Chairperson of this Committee has run the House through the Report and its recommendations. Indeed, it has been confirmed that the sector has certain challenges. If those recommendations were to be implemented, we would bring down the cost of electricity, enhance the supply of power across the country, and by extension, support so many industries, households, and institutions in terms of doing what they are supposed to at any given time.

Of particular interest is Recommendation No.3, which spoke about the completion of several transmission lines. This will support the transmission of power to very specific places. The Senator for Nyamira County, Sen. Omogeni, indicated to the House that one single supply line in Chemosit supplies up to about five counties. It is more than five counties.

At any given time when there are blackouts, it is not because of lack of power, but the inability of the transmission line to serve all the five counties. Therefore, this means that industries, households or institutions that are going to be denied power at such a time; when there is inability for the transmission line to share, are going to suffer. For instance, the county I represent is a victim of that blackout due to the inability of the transmission line.

If the recommendations that have been made by this Committee are going to be implemented, in this case, they have proposed a timeline of one year, then they will serve a lot of the areas that have been in most cases deprived of operations because of the inability of the transmission line to serve them.

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Secondly, I would like to support the Committee's recommendation on the contracts by the power-generating Independent Power Producers (IPPs) and Kenya Power Company (KPC). We cannot void a contract nor can we say that they are cast in stone, as the Chairman indicated earlier on, as he laid the Report. However, I believe it entirely depends on the goodwill that the IPPs and parties to the contract can engage in.

As the Hon. Senator for Nairobi City County has said, these contracts can be renegotiated. It is the only way to exit the terms of the contract, which are not fair and unconscionable to one of the parties. As to whether or not this has taken forever to be done, my guess is as good as the one that came from the Committee because of the interest entrenched in the sector. I believe that the proposed recommendations in the proposed amendments to the Energy Act, 2019, which Sen. Sifuna is pushing, will enable the House to deliberate beyond the contracts that are existing.

I believe that when such recommendations come before the House, they shall facilitate engagement on whether there is a possibility to disengage the generation, distribution and ultimately commercialisation of power. We all know the consequences of monopoly because there is no competition. The party that produces, distributes and commercialises does not feel it as much when there is no competition, but rather when there are additional players.

I encourage Sen. Sifuna as he is seeking the proposed amendments, he should consider including an element of not having a monopoly within production and distribution lines, as well as the commercialisation aspect of power. This is the only way we can liberalise the market, so that we can engage with the pricing of electricity at any given time.

Lastly, we are experiencing losses of 26 per cent transmission. One is left to wonder how and at what point did we get over 20 per cent beyond what is globally acceptable. If 26 per cent loss on transmission is globally accepted and is within the allowable parameters, how and why did we get to 26 per cent?

Is this a factor that is normally played by those dealing with documentation for purposes of ensuring that they continue with the loot? Is it on challenges or incidences of poor governance? Is it, therefore, a factor that besides the acknowledgment that we have a 26 per cent loss on transmission, the Committee needs to look beyond the recommendation?

We are told that we need to have an implementation committee, but I tend to believe that the Standing Committee on Energy is comprised of Members knowledgeable in the sector, who have been involved beyond the report writing and have delved into the details and challenges that the energy sector has experienced. This same team can follow through with these recommendations.

I believe that with certain timelines, this House will have the option to summon the parties relevant to ensure they are honoured, and those which require amendment to the law, are going to be supported. At the end of the day, we want to push Kenyans and make sure that the cost of electricity is at least affordable and reasonable in the context of the households, industrial demands, and above all the issues causing the high cost of electricity.

With all those remarks, I support. I congratulate the team headed by the Senator for Nyeri County and Members of the Standing Committee of Energy for taking their time to diligently engage the players in the sector and for giving us such a detailed and elaborate Report. With the implementation of the proposed recommendations, the cost of electricity will be managed and Kenyans will enjoy the works of the Committee.

I thank you.

**The Deputy Speaker** (Sen. Kathuri): Thank you Senator.

Next is Sen. Veronica Maina.

**Sen. Veronica Maina:** Thank you, Mr. Deputy Speaker, Sir, for this opportunity to support the Report that has been brought to the Floor of the House by the Standing Committee on Energy.

Let me join my colleagues in congratulating this team for doing a good Report, and we can tell that they have done a very exhaustive investigation into the issue of the high cost of electricity in the country.

Unfortunately, when Kenyans hear we are debating about the cost of electricity in Kenya, it leaves a bitter taste in their mouths because of the experience they have had with KPC. If you have an opportunity to speak to the people on the streets or the corporations working within the Republic of Kenya, they will tell you of days they were tormented by unreasonable power bills. Bills that could not be explained were shifting every day. For instance, for an entity such as the Senate, its power bill with the same consumption and utility, with no additional equipment or appliances added into the building will be from Kshs200,000. In the following months, it will jump to Kshs400,000 or Kshs1 million without a single explanation from KPC on why there is such a range in bills within the same entity without any additional gadgets utilising the power.

It has been a disaster and menace to Kenyans. That is a sad story. Out of the irrationality of power bills, many people have lost their upkeep because businesses have been shut down. Again, people are unable to sustain power bills. If somebody loses their job, I can assure you that they cannot sustain paying power bills in their homestead. The bill could be to a tune of Kshs20,000 or Kshs30,000 in a month, which is just one item in their budget.

This has been a sad story within our nation. The fact that Kenya Power Company has been a monopoly has not helped the story. The kind of control they have had over power has made it possible for Kenya Power Company to behave as though no one else will enter the energy field or offer power to Kenyans.

Unfortunately, this reminds me of Kenya Airways. I have been unable to rationalize how these two companies operate. That is the management behaviour and what they do with the resources that Kenyans have bestowed upon them.

Today, we are not discussing Kenya Airways; that will be a debate for another day. They have unique characteristics that are almost similar because of the monopoly they enjoy. They should cease to receive any protection from the Government.

I am looking at some of the failures we have had at the management level. For instance, in (viii) of this Report, KETRACO has been designated as the system's operator since 2021. This is yet to be implemented despite the existence of Gazette Notice No.155

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dated 21<sup>st</sup> December, 2021. Where does the responsibility lie? Why are they dragging the feet when it comes to implementing that Gazette Notice?

I commend the Committee on Energy, led by the Senator for Nyeri, Sen. Wamatinga, for writing this Report in simple language. That also goes to other committees in the Senate and other bodies in the country that write good reports. If you want the best reports worldwide, they should come from Kenya.

Our problem is when it comes to reading reports and implementing them. We need to hold this Committee responsible for ensuring that they develop an implementation matrix for this Report. The Committee went out of its way to give a timeline within which the implementation of all their recommendations should happen. If these were to be implemented, we would finally sort out a big aspect of what we are crying about in Kenya, the cost of living.

The cost of power is driving the cost of living high for everyone in the Republic. The Senate Secretariat should ensure that once this Report is adopted, there is a tracker for implementation. That way, we will have hope and eventually see light at the end of the tunnel. Even before Kenya Power gets competitors in the market, they should tame power bills for all Kenyans.

Though this Report is long with many pages, unfortunately, it begins and ends with the question of IPPs. Kenyans do not need to use their energy or effort to read this Report. Those enjoined should use the energy to perform or implement what the Constitution requires. Those working for Kenya Power and the Cabinet Secretary for Energy and Petroleum should read it. The question that the Senate needs to sort out is the issue of IPPs.

I have mused myself listening to my colleagues talking about the signed contracts that have bound a whole nation into bondage that appears as though we cannot move out of. I beg to differ with many of the views fronted here today.

If a contract is signed on behalf of the public and it has an element of illegality, it should be voided by the courts. When a contract has a public interest aspect within components of terms that are there, any party willing to be bound must also accept the fact that if the contract is performed in Kenya, the Constitution requires public and state officers and entities to be bound by terms and obligations set out under the Constitution of Kenya.

Indeed, there is an exit to the contracts. The fact that it has illegality and unfairness that binds *mwananchi* in Kenya, who did not sit to sign the contracts, yet they are paying the bills, means there is an exit. If it is illegal or void *ab initio*, it should be declared as such and a revision discussed.

The question that comes to my mind is; who are the faces behind IPPs? When I look at some of the names, some shareholders come from sophisticated destinations. You should be safer going to a court in London when it comes to application of democratic principles, principles of fairness, and principles of justice to public interest. You would be safer taking that matter before a court in the United Kingdom (UK).

Nothing stops the Ministry from exercising diligence. If the cited jurisdiction of those contracts is in the UK or Denmark, nothing stops the Ministry, Kenya Power, or

any party in the power purchase agreements from challenging the illegality that it has no exit clause.

You cannot hold a whole nation at ransom, that whether one consumes power or not, they will continue to pay for it. The person paying for it could be earning less than a dollar in a day. There is no justice or fairness in that argument.

I propose to this House that there should be an exit clause. All power purchase agreements are capable of being invalidated, have those terms reviewed and settled within the contract, and get Kenyans to the pricing of the power in a manner that is competitive and that meets the international standards. This nation should be willing to be subjected to international standards of pricing of power units.

For all the time we have had discussions on why power is charged highly in Kenya because the cost of electricity is high, there is always the feeling that nothing can be done because of agreements that have bound us for 20 years. We have witnessed the fact that even when a law is made in this House or the National Assembly, if it is unconstitutional---

We have seen our courts declaring sections of laws illegal or unconstitutional and invalidating them. If a court can invalidate a whole Act of Parliament, what would stop a contract from being taken to the same court for a determination to be made on whether it meets the constitutional threshold of a contract that binds the public? Ultimately, when we have public entities entering into contracts with suppliers, the suppliers must understand the environment within which that contract has been made.

Therefore, I rise to support the Report that has been brought to this House. I have looked at the recommendations. It is worrying that the Kenya Power Company (KPC) debt stands close to Kshs39 billion and they have consistently made sure if you do not pay your bill within two days, they disconnect you. Subsequently, they are collecting money. They should be able to find a way of paying off their debt. The system losses is something that they should handle. Whatever equipment they are using, if the lines are substandard or whatever it is that is causing system losses at 26 per cent, that is something they should address.

Mr. Deputy Speaker, Sir, I have also noted that the Energy and Petroleum Regulatory Authority (EPRA) has failed to submit 27 regulations.

**Sen. Cherarkey:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Just a minute, Sen. Veronica Maina. What is your point of order, Sen. Cherarkey?

**Sen. Cherarkey:** Mr. Deputy Speaker, Sir, under Standing Order No. 1 and 105, I have heard my sister, Secretary General (SG) *Emeritus*, Sen. Veronica Maina, saying that Parliament has the power. If I did not get it correct, she can correct me. She said that Parliament has the power to invalidate contracts under the Independent Power Producers (IPPs) Agreement.

My only concern is; is it in order to tell the public that Parliament has power to review, cancel or terminate contracts, yet as a senior lawyer or advocate, she should know that is the preserve of the courts of law? Maybe I did not get that correct, but I am willing to be guided. Is it in order to mislead the public that Parliament can invalidate, cancel, review or terminate contracts of any nature outside IPPs Agreement?

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**The Deputy Speaker** (Sen. Kathuri): This shows that you really doubt what you heard. Perhaps, Sen. Veronica Maina can make a clarification.

**Sen. Veronica Maina:** I can clarify because it is clear that Sen. Cherarkey did not pay attention to what I was submitting and debating. I would urge him to be concentrating while in the Senate, because I said that contracts should be subjected to the courts and jurisdictions within which were stipulated within those contracts.

Mr. Deputy Speaker, Sir, a lawyer of my repute would never confuse such a basic thing and I would wish now to proceed.

In a contract that has to be invalidated, it would have to be taken to a court of competent jurisdiction.

Finally, I would urge that the parties who have signed up the IPPs should now proceed to the relevant institutions to have a review or a revision of the contract. Additionally, the Auditor General has done a very good job. I watched the report as she appeared before the Committee in Parliament. She should now do what we call a performance audit in this energy sector.

I have noted that she has done 10 performance audits in other public entities in Kenya, and she has done over 1,746 audits in national Government. She should now proceed with speed to do a performance audit in the energy sector.

Performance audit would entail auditing every aspect on how this power is being managed within the Republic of Kenya on the costing, contracts and systems - why we have 26 per cent losses of the power that is coming from generation against the industry standard of 16 per cent.

Let her do this audit and let this audit be the 11<sup>th</sup> audit, so that Kenyans can finally have an answer; small businesses can continue to run using KPC and the normal power without having to take in the cost of installation of expensive solar to avoid short circuit and having to use the power that is brought through the KPC.

Thank you, Mr. Deputy Speaker, Sir, and with those many remarks, I beg to support.

**The Deputy Speaker** (Sen. Kathuri): Proceed, Sen. Joe Nyutu.

**Sen. Joe Nyutu:** Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I also rise to support this Report by the Committee on Energy, led by my friend and neighbour, Sen. Wamatinga. I will be very brief.

The purview of this Report was on the cost of power in Kenya. Everyone that pays for power - and I believe almost everybody in this House has a meter somewhere and knows that over the last two years - the cost of power has shoot through the roof. Therefore, this is a matter that concerns all of us. It is a matter that has affected the cost of production in this country and resulted in high prices of goods and commodities; consequently, a high cost of living. Therefore, this Report could not have come at a better time.

There are many concerns with KPC. They recently introduced Smart Meters and one thing that I find very interesting with these Smart Meters is that, of course, the consumer will not know how accurate the readings from these meters are. Therefore, consumers might not know whether actually what they are charged is what they have consumed.

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Mr. Deputy Speaker, Sir, before I go to the recommendations, I also wish to point out the other shortfalls or things that KPC does that are not very pleasing, especially in this day and age.

Currently, there is a big shortage of transformers. There are many people out there pushing us to request for transformers for them. This is not something that politicians are supposed to do. However, our people come to us out of despair. This is because some meters that are sometimes vandalized will take even months before they are replaced. When you follow up with KPC, mostly, the answer you get is that their meters are out of supply. This is something that concerns us as representatives of the people.

Mr. Deputy Speaker, Sir, this Report has made many recommendations. Most of them have a soft landing for these IPPs. If you look at some of these recommendations and I did look at them, recommendation No.13 provides that –

“prioritization of future IPPs should be given to Geothermal Power in order to provide a continuous power supply with minimum interruptions at the base load;”

Mr. Deputy Speaker, Sir, it is as if we are trying to fit into the position of IPPs. Most of us that have contributed today have asked, do we really need these IPPs? Can the KPC not enhance its productivity of power?

Mr. Deputy Speaker, Sir, why would we want to continue making some private companies to benefit out of the suffering of Kenyans? Why would Kenya Power Company (KPLC), a monopoly, still rely on Independent Power Producers (IPPs)? Why would KPC not invest in production of power? These are the questions that we have been asking ourselves. Why do we use IPPs? Can we not do away with them all together?

Another area relates to production of power. We have travelled to some countries and you will find that they have uninterrupted power supply. Most of these countries, if you ask, you will be told it is because they use nuclear power, which is why their power supply is never interrupted.

Mr. Deputy Speaker, Sir, perhaps, it is time we also started asking ourselves, through the Committee, what prevents us from generating nuclear power? I am happy that Sen. Wamatinga is still in the House. Is it not an option considering the high need for power supply that we have?

We also should be asking ourselves why KPC continues to be a monopoly. Some of us have had an opportunity to apply to be connected to power. One very interesting thing is that sometimes it is the would-be consumers persuading KPC to connect them.

If they were to operate as a company that makes some profit, they should be pursuing new connections. It should not be the other way around; that sometimes people look for some influence to be connected with electricity. Is it not time to look into the possibility of perhaps licensing another power company so that there is competition? When there is competition, efficiency is sure.

I challenge the Standing Committee on Energy to look into whether there is a possibility of having other companies, not just one, so that there is competition. This will ensure that we can also afford our people a variety. They say variety is the spice of life.

If I do feel like being connected to power by another company, then I should have a choice. Why must we continue protecting or giving support to a monopoly that is not efficient? Kenya Power Company must convince this country that it should continue

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being a monopoly through efficiency. Let us see their top-level efficiency. When that happens, then we can be convinced that they should continue being monopolies. I do not think that we should allow any particular service provider, especially of an important service like power, to continue being a monopoly.

**Sen. Cherarkey:** On a point of information, Mr. Deputy Speaker, Sir.

**Sen. Joe. Nyutu:** Mr. Deputy Speaker, Sir, because it is late, let me not be informed by Sen. Cherarkey. He can bring out his information during his time because I know he is asking to speak.

Thank you, Sen. Cherarkey.

Mr. Speaker, Sir, there is this particular loan of about Kshs38 billion that KPC owes. I am a Kenyan who has been around to see Kenya Airways (KQ) being bailed out by Government every year. This is just a company that serves only the chosen few, because if you come from a place like where I come from, not many people fly. I have been wondering that the Government has also bailed out Mumias Sugar Company. Would it not be a very good idea if the Government decided to bail out KPC? This would have some other multiplier effect, because if we bail out KPC, which serves the whole country, then it means that such a bailout benefits the whole country.

This will also bring cost of production down. This will be good for our economy because once the cost of power goes down, the cost of production also goes down, hence, the returns also rise. I recommend bailing out of KPC, of course, on condition that they exhibit proper running of the company.

I commend the Committee for the recommendation on the acquisition of wayleaves with the aim of reducing challenges associated with delays of installation of power transmission. We know that there are so many consumers that would be willing to be connected to power, but have not to power because KPC has not been able to obtain wayleaves. Sometimes, you get some unreasonable landowners.

Where I come from, there is a particular landowner who has completely refused to give wayleave to Athi Water Works Development Agency to connect a particular section of our people in Murang'a. Where we have such difficult landowners, we need to have some very good way of making such people give wayleave. Perhaps, we can come up with a law that if it is a wayleave to an important service, we have such people giving wayleave without an option and only leaving them with the option of seeking compensation for such.

You cannot have one landowner that blocks hundreds and sometimes thousands of people from accessing an important service. I commend the Committee for that particular recommendation.

In summary, because I know there are my colleagues that still wait on the queue to make their contribution, we should be following keenly on how we can do away with IPPs because we cannot privatize such an important service.

The Committee should look at this possibility. We should empower KPC to operate efficiently and optimally, so that they produce their own power and supply the same to our people in abundance, because this is a very important service.

Mr. Deputy Speaker, Sir, because it is getting late, I want to conclude there. I support the Report, but remind the Committee that there is still room for improvement.

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**The Deputy Speaker** (Sen. Kathuri): Thank you. Hon. Senators, this is one of the most crucial Reports of this House. Members are passionate when contributing.

I encourage those on the queue because they are not many, to hang on. I can see a few of you, starting with Sen. Osotsi, Sen. Munyi Mundigi and the rest, including Sen. Orwoba. There is still time for all of us to speak. Sen. Kavindu Muthama, you are also on the queue.

**Sen. Osotsi:** Thank you, Mr. Deputy Speaker, Sir, for this opportunity to make my very valid contribution to this very important Motion.

*[The Deputy Speaker (Sen. Kathuri) left the Chair]*

*[The Temporary Speaker (Sen. Veronica Maina) in the Chair]*

Madam Temporary Speaker, allow me to start by congratulating the Committee for doing a wonderful job. The Committee, led by my good friend, the Senator for Nyeri County, Sen. Wamatinga, who I must commend, has been a champion of worthy causes nowadays. This is one of the worthy causes that he has led his Committee to perform.

Madam Temporary Speaker, I must also congratulate the Committee for coming up with this very important and timely Report because, as you know, we are all complaining about the issue of cost of electricity in this country. The cost of electricity is also related to the cost of living, as Madam Temporary Speaker, rightly said in her contribution.

I am also very happy with the presentation of this Committee. I think other committees must learn from the presentation that we have been given in this Report; a Report that has smart recommendations, a clear implementation matrix and something to follow up to. I agree with the Members who contributed previously that our standing committees and even the oversight committees must do their reports in such a way that they are able to follow up their own recommendations so that our people get value from our work.

Madam Temporary Speaker, the issue of the cost of power is very pertinent in this country because Kenya is ranked among the top 10 countries in Africa whose cost of electricity is very high. We are paying close to US\$0.22 per kilowatt hours (kwh) against the international average of US\$0.136 per kwh. That is very high.

Ironically, the cost of power is higher in some of the developed countries. A country such as Denmark is doing US\$0.54 per kwh. However, we cannot compare ourselves to those countries. Let us compare ourselves to Africa; a continent where we belong. Probably, the cost of power in those countries is higher because of their geography and other factors. However, the geography in Africa suits the production of cheap power. So, why are we not able to produce cheap power in this country?

There are many factors as to why we are not able to produce cheap power in this country. One of the factors that Members have dwelt on is the issue of these Power Purchase Agreements (PPA); some of them are very expensive. The other factors include operational inefficiencies and corruption in the power sector and economic factors, which the Committee did not deal with. I will speak about it at some point in my contribution.

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Madam Temporary Speaker, this Report addresses the problem of cost of electricity and gives recommendations, which can help. However, I have not seen recommendations around economic factors. I think that was an oversight because if you look at the tariff structure of electricity pricing, you realize that there are so many components, all which add to higher costs of electricity.

If you look at the tariff structure, we have things such as fuel cost adjustment, which means that if the cost of fuel goes up, then the cost of electricity will also go up. We have issues such as foreign exchange fluctuation. If you have a problem with your forexes, the cost of power will go up. We have inflation adjustment. If you have a problem with inflation, the cost of power will go up.

We also have other levies such as the Electricity Regulatory Commission (ERC), which has now become EPRA levy, the REP levy, the Water Resources Management Authority (WARMA) - those hydro projects are also charging levies on electricity - and VAT, which was increased from 8 per cent to 16 per cent.

If we are genuine about addressing the issue of the cost of power, we must start by looking at the economic variables. This Committee should have looked at the economic factors as well, so that in their recommendations they also recommend what needs to be done on those economic factors to reduce the cost of electricity. Without looking at those, even if we did some of these things that they have suggested, the cost of power will still be high.

So, as we talk about the cost of electricity, we also need to talk about the economy. We all know that the economy is not doing well now. I think that is where more focus should be. As a House of Parliament whose role is to deal with concerns of the people, we need to seriously think of how we are going to make it easy for our people and this economy. So, the only omission I have seen in this Report is that it has been silent on economic issues.

Madam Temporary Speaker, on the issue of IPPs, I have heard this debate for many years. When I was a young boy, one of my very early jobs was in the energy sector. I worked with the Energy Regulatory Commission. We started talking about these IPPs in those days and we are still talking about them to date. The faces around these IPPs are known. They are there, benefiting from this industry, but no one is taking any action.

We have had several governments; the Moi Government, the Kibaki Government, the Uhuru Government and now, we have the Ruto Government, yet, we are still talking about individuals who are exploiting Kenyans and no actions is being taken. We are not a serious country. Even by listening to the contributions from Members here, some of them were stating that there is very little we can do; that it is only the courts that can do something.

We have something that we can do as a House of Parliament. Why are we not doing that? Why are we skirting around issues? We are saying that in 14 days after adoption of the Report, the Ministry should give us full disclosure of the owners of IPPs, but in the Report, we have given the CR12 for those companies. Why are we not going for those people? Why are we not recommending the cancellation of those agreements? We know the problems and the solutions, but we are not addressing the problem.

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Madam Temporary Speaker, if we want to address this issue of IPPs, we must recommend that all those agreements be cancelled. A House of Parliament has the power to do that. We are saying that 14 days after the adoption of the Report, the Ministry will give full disclosure of the owners of the IPPs, after that, nothing happens because nothing has been recommended.

We are looking upon the Committee on Energy, when it sits down, to implement this Report, come back to this House with a Motion that requires this House to order for the termination of those illegal contracts, which continually impoverish our people.

The issue of inefficiencies is another aspect contributing to the high cost of power. When we talk about inefficiency, it should not be about the distribution of power. We need to look at inefficiencies through the value chain from generation, transmission and distribution of power.

Generation of power has been an area of corruption. From the days of President Moi, we had problems with the Turkwel Hydro-Electric Power Station. Some of these power projects are money-minting projects for people in the Government. That inefficiency ends up in the cost of electricity for our consumers. We need to look at all those inefficiencies along the value chain.

Madam Temporary Speaker, on the issue of transmission of power, KETRACO is there. However, it is another problem where there is massive corruption and high pending bills. This Report talks about pending bills of Kshs20 billion. Why are we talking about Kshs20 billion pending bills for a company that is supposed to help in coming up with transmission plants to enhance more power to our people?

We need a restructuring of KETRACO and to remove politics from it. We change the leadership of KETRACO every now and then for political consideration. That organization is supposed to be purely professional, managed mostly by engineers. However, we bring in people who have no background in engineering to manage large-scale projects. That is where corruption comes in.

Madam Temporary Speaker, we also have a problem in the distribution. People have to bribe officials from Kenya Power Company or the REA to get electricity supplied to them. These are things that should not be happening in this country if we mean business, in order to reduce the cost of power.

This Report also recommends that three major projects be completed in a span of six months. They are the Narok-Bomet Line that is supposed to generate about 132 kV, the Mariakani Substation meant to generate between 220-400 kV and the Turkwel-Ortum-Kitale Line, and this is important. We experience blackouts and low quality power in the region where I come from all the time because of some of these lines that are supposed to supply power to the Western part of the country.

A few months back, we heard about Kenya Power's report by the Auditor-General on the billing software. There was a massive rip-off that still goes on. What action has been taken? The Committee fell short to tell us more about actions that have taken following the audit report by the Office of the Auditor-General.

Madam Temporary Speaker, the reforms in the energy sector have a major challenge, particularly in the implementation of the Energy Act, where we are told that there are 27 Regulations lying idle at the office of the Attorney General.

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This is a matter that needs addressing, because in every sector, you will hear that regulations are lying at the office of the Attorney General. What is happening in that office, led by my good friend, former Speaker, hon. Justin Muturi? Something has to be done. We also have regulations in the sugar, tea and electricity sectors, lying there. What are those people doing in that office?

The other major issue is the debt burden at the KPC, whose debt portfolio is Kshs38.9 billion. If you have such a high debt portfolio, you cannot be efficient or produce cheap power. All these issues generally revolve around the efficiency of Kenya Power. We get concerned because it is the monopoly in electricity distribution. Supposing something happens to Kenya Power Company, the country would be in darkness. This is not only in Kenya Power Company; it is even in telecommunications – Safaricom.

Madam Temporary Speaker, this is the real state capture. Forget what the Member of Parliament (MP) for Kikuyu is talking about. Something has to be done. The issue of encouraging private investment has to come in, so that we have pension funds and financial institutions investing in power generation, transmission and distribution. That has to be emphasized.

All in all, this is a wonderful Report. I seriously hope that it will be implemented. However, the Committee should have time to look at those omissions, particularly on economic factors and make further recommendations, so as to reduce the cost of power. This is because it is an important aspect in dealing with the cost of living, which we are all talking about.

Madam Temporary Speaker, there is also the issue of legal costs related to procurement of meters and transformers at Kenya Power Company. The Committee should have given us the way forward on how to handle those issues as well.

With those few remarks---

*(Sen. Osotsi's microphone went off)*

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Senator.

I have been informed that my colleague Speaker had given two Senators on the Majority Side a chance to speak.

Proceed, Sen. Kavindu Muthama.

**Sen. Kavindu Muthama:** Madam Temporary Speaker, thank you for the opportunity to support, with changes, the Report by the Standing Committee on Energy.

Madam Temporary Speaker, I commend them for the good work they have done. There are just a few things they overlooked. One of them is that Masinga Dam produces 1.56 billion cubic meters of water, capable of generating 40 Megawatts of electricity, yet there are homes surrounding Masinga Dam that have no electricity. I wonder why they cannot consider and connect all those people with electricity.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Orwoba, what is your point of order?

**QUORUM**

**Sen. Orwoba:** I rise under Standing Order No.41. We have no quorum, we cannot proceed.

**The Temporary Speaker** (Sen. Veronica Maina): Clerk, can you confirm if there is quorum?

*(Loud consultations)*

Sen. Orwoba, can you maintain order in the House? Why are you shouting? There is no need to shout, we have heard the point of order. Conduct yourself in a proper manner.

*(Loud consultations)*

Sen. Munyi Mundigi, you are out of order.  
Serjeant-at-Arms, ring the Quorum Bell for 10 minutes.

*(The Quorum Bell was rung)*

Sen. Orwoba, maintain order.

*(Sen. Orwoba walked out of the Chamber)*

*(Sen. Tobiko answered her phone call)*

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Tobiko, you can have your phone call outside the Senate.

*(Quorum Bell ringing)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, having failed to attain quorum at the expiry of 10 minutes, the Senate stands adjourned pursuant to Standing Order No.41(2)(a) until tomorrow Wednesday, 28<sup>th</sup> February, 2024, at 9.30 a.m. When we resume, Sen. Kavindu Muthama will have 19 minutes.

The Senate rose at 6.02 p.m.