# KERICHO COUNTY ASSEMBLY

## THE HANSARD

**Third Assembly**

**Second Session**

**Tuesday 2nd July, 2024 A**

*(The House met at 10.00 a.m.)*

*[The Speaker (Hon. (Dr.) Patrick Mutai) in the Chair]*

## PRAYERS

**The Speaker (Hon. (Dr.) Patrick Mutai):** Good morning Honourable Members and welcome to our morning session today being 2nd July 2024 and as you can see Hon. Members, we have guests in our Public Gallery and I would like to acknowledge the presence of visiting pupils and teachers from a school called Sumeiyon Junior Secondary School from Kapkugerwet Ward. In our usual tradition Honourable Members, of receiving and welcoming visitors in this Assembly I extend a warm welcome to them and on behalf of the Assembly wish them a fruitful visit. I can see Honourable Martin is in the House and when time for transacting the Order of Business comes I will allow Members to welcome the pupils and the teachers from the visiting school.

Honourable Members, we can now proceed with the Order of Business. Clerk, Order Number one!

Next!

## NOTICES OF MOTION

REPORT OF THE COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE ON THE CONSIDERATION OF THE AUDITOR GENERAL'S REPORT OF THE KERICHO WATER AND SANITATION COMPANY LIMITED FOR THE YEAR 30TH JUNE 2021 AND 30TH JUNE 2022.

**The Speaker (Hon. (Dr.) Patrick Mutai):** The Chairman, Public Accounts and Investments Committee, please give Notice of your Motion!

**Hon. Vincent Korir (Chairperson County Public Accounts and Investments Committee and Member for Londiani Ward):** Thank you Mr. Speaker, Sir. I hereby give Notice of Motion, That, this House approves the Report of the County Public Accounts and Investments

Committee on the Consideration of the Auditor General's Report of the Kericho Water and Sanitation Company Limited for the Year 30th June 2021 and 30th June 2022. Thank you!

**The Speaker (Hon. (Dr.) Patrick Mutai):** Thank you! Clerk, Next Order!

## MOTION

REPORT OF THE COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE ON THE CONSIDERATION OF THE AUDITOR GENERAL'S REPORT OF THE KERICHO WATER AND SANITATION COMPANY LIMITED FOR THE YEAR 30TH JUNE 2021 AND 30TH JUNE 2022.

**The Speaker (Hon. (Dr.) Patrick Mutai):** The Chairman, Public Accounts and Investments Committee Hon. Vincent Korir you can now table your Motion before this House.

**Hon. Vincent Korir (Chairperson County Public Accounts and Investments Committee and Member for Londiani Ward):** Thank you very much Mr. Speaker, Sir, for giving me an opportunity to table the Motion on the Report of the County Public Accounts and Investments Committee on the Consideration of the Auditor General's Report of the Kericho Water and Sanitation Company Limited for the Year 30th June 2021 and 30th June 2022.

Mr. Speaker, Sir, Members, we have the Table of contents, we also have the names of the members who have signed for the adoption of the report, there is also the abbreviations and acronyms and the definition of terms. Mr. Speaker, Sir, let me take this opportunity to define the terms:

Disclaimer: A disclaimer is when the auditor is unable to review fully an entity's documentation because there is a substantial amount of information that is missing. The absence of information makes it hard and difficult for the Auditor General to make an opinion. In other words, the auditor feels unable to determine whether the situation is qualified or adverse because the paperwork is not adequate. This is a serious lapse in compliance and should be of concern to oversight bodies. A disclaimer indicates that the record keeping is so bad to the extent that the auditor cannot give an opinion.

Adverse Opinion: An adverse opinion is issued when the Auditor General is able to review the entity's documentation supplied for audit purposes and the final audit reveals problems that are widespread and pervasive and will require considerable changes to remedy. This is equivalent to scoring a pass in an examination. Oversight institutions are concerned to recommend remedies to address such anomalies and systems.

Qualified Opinion: This is as a result of Auditor General finding some problems that are not widespread or persistent with documentation and information supplied. The auditor received all the information required for audit. However, after review the audit reveals there are some gaps in adherence and compliance to legal procedures.

Unqualified Opinion: This arises when the Auditor General is satisfied with documentation presented for review. It implies that there are no major problems with documentation and information that were presented for assessment and the funds are managed properly.

Mr. Speaker, Sir, Section 14 of the County Governments Act establishes the Committees which empowers the County Assemblies to establish committees and make standing orders for the orderly conduct of its proceedings, including the proceedings of the committees.

The Public Investment and Accounts Committee is further established by the Kericho County Assembly's Standing Order 200 whose mandate is as follows:

1. The examination of the accounts showing the appropriations of the sum voted by the Assembly to meet the public expenditure and of such other accounts laid before the Assembly as the Committee may think fit.
2. The examination of the reports, accounts and workings of the County Public Investments;
3. The examination, in the context of the autonomy and efficiency of the County Public Investments, whether the affairs of the County Public Investments, are being managed in accordance with sound financial or business principles and prudent commercial practices:

Provided that the committee shall not examine any of the following:

i. Matters of major County or National Government policy as distinct from business or commercial functions of the public investments;
ii. Matters of day-to-day administration; and
iii. Matters for the consideration of which machinery is established by any special statute under which a particular county public investment is established.

The County Public Investments and Accounts Committee is the avenue through which the County Assembly under the provision of Article 185 (3) & (4) carries out the ex-post scrutiny of county governments and its entities budgets.

Mr. Speaker, the Committee Membership is as listed:

1. Hon. Vincent Korir Chairman
2. Hon. Monica Chelangat Vice Chairperson
3. Hon. Erick Bii Member
4. Hon. Gabriella Chepngeno Member
5. Hon. Hillary Bosuben Member
6. Hon. Julius Siele Member

7. Hon. Dorah Keino Member
8. Hon. Paul Chirchir Member
9. Hon. Albert Kipkoech Member

Mr. Speaker, the committee examined the reports of the Auditor General on the Financial Statements of the Kericho Water and Sanitation Company Limited for the financial year ended 30th June 2021 and 30th June, 2022 and identified various fiduciary risks.

During the year under review, Kericho Water and Sanitation Company limited had challenges with its going concern. This means that, the company operations into the future is not certain since they are not able to meets its current obligations as and when they fall due.

The committee further noted that the company has a huge amount of long outstanding debtors whose chances of collections are minimal thus putting the company in a difficult financial crisis. At the same time, the company has not been able to remit statutory deductions and other retirement benefits obligations.

The company also had 53% Non-Revenue water in the year ended 30th June, 2022 which rose from the prior year of 52%. This means that the company lost 53% of all the water produced against the 25% recommended by WASREB. In this regard, the company did not attain its revenue target by 36% thus hampering the service delivery to the residents of Kericho.

The audit report further revealed that, the company had not resolved prior year issues raised by the Auditor General. The issues raised were critical and if left unresolved will affect the going concern of the company.

During the period, the company also utilized customer deposits to fund its operations which were against the set regulations. The deposits are customer monies and should only be kept in a separate customer deposits account to be refunded when they fall due. At the same time, the company had three frozen bank accounts with an amount of Ksh.5, 669,743 which was under litigation but the case had been ruled but the amount had not been unfrozen.

Lastly, the company failed to comply with various legislations including; Public Finance Management (PFM) Act fiscal responsibility principles, one-third basic salary rule and the law on ethnic composition.

In addition to the observations outlined in this executive summary, this report also contains specific observations and recommendations for respective audit queries.

GENERAL OBSERVATIONS AND RECOMMENDATIONS

Number one; Undisclosed Material Uncertainty Relating to Going Concern

Mr. Speaker, the committee observed that the company had been operating under a negative working capital. This is an indication that the company is no longer able to meet its current obligations as and when they fall due hence technically insolvent. The company has been making losses continuously to a tune of Kshs.117, 242,257 in financial year 2021. At the same time, the company has been operating without a functional Board of Directors to give direction to the company.

Mr. Speaker, the committee recommendation is that the Board of Directors should be constituted within 30 days of the adoption of this report.

The committee further invites the Water Regulatory Board to look into the operations of the company with the aim of advising the county on the best way to do business re-engineering and restructuring.

Long Outstanding Debtors

Mr. Speaker, the committee noted that the chances of collecting some of the long outstanding debts are minimal. These are customers who were inherited from the defunct Tililbei Water Company Limited as well as some urban customers who had accrued huge water bills.

The committee further noted that, these long outstanding debts have put the company in a very difficult financial crisis. The company has been unable to pay salaries to staff, pension contributions, and statutory deductions among other creditors.

Mr. Speaker, the committee recommends that the company should develop a debt recovery strategy on how to collect the outstanding amount and submit the same to the departmental committee of the assembly within 30 days of the adoption of this report.

Overstatement of Customer Deposits Bank Accounts

Mr. Speaker, the committee observed that the reported customer deposits is Ksh.28,560,589 while the actual amounts in the bank is Ksh.7,751,712 giving a variance of Ksh.20,808,877 which had been withdrawn and used for other purposes. The borrowings were being done to pay salaries and other expenditure and not to invest as stated by the management. Customer deposits are supposed to be held in a customer deposits account and withdrawn only when it is being refunded to the customers.

Mr. Speaker, the committee recommends that the company should stop borrowing from the customer deposits account to pay salaries and other expenditure.

The committee further recommends that the customer deposits be put in a fixed deposit account to enable the company earn interest which will increase their revenue.

Unremitted Statutory Deductions

The committee observed that the company has not been remitting statutory deductions for its employees which is a breach of law. This is a sign that the company is not able to meet their obligations as and when they fall due. As at 30th June, 2024, the company had not remitted employee payables of Kshs.55, 678,768 which comprises of unremitted PAYE, NSSF, NHIF, salary arrears and other deductions.

At the same time, the company had not remitted Ksh.84, 387,167 in terms of retirement benefits obligation.

Mr. Speaker, the committee recommends that, the company should remit all outstanding statutory deductions to avoid attracting fines and penalties to the Company as a result of non-remittance.

The committee further recommends that the county government should honour its obligation of providing subsidy to the company as per the contract signed at the time of merger.

Number five, the committee observed that the company produced 3,645,781 cubic meters of water in the year ended 30th June, 2022, out of which 1,729,915 $m^3$ meter cubic was billed to customers representing 47% of the total water produced. 53% of water produced was lost through leakages, bursts, illegal connections and faulty meters. This is an increase from the prior year where the company had 52% non-Revenue water. The recommended percentage of Non-Revenue water should not be more than 25%.

This means that the company is losing more water than they sell hence being one of the reasons the company is not able to meets its obligations.

The committee recommends that the non-revenue water is critical issue and the performance of the management should be pegged on the reduction of non-revenue water. The company has continuously failed to reduce the non-revenue water which rose from 52% in the year 2021 to 53% in the year 2023. This is an indicator of poor performance by the management hence their contracts should not be renewed.

Number six: Unresolved Prior Year Issues.

Mr. Speaker, the committee observed that the prior year issues raised by the Auditor General were not being addressed by the company. If these issues are not resolved may make the company not to be a going concern since the issues raised are critical. The committee further noted that, in the absence of the board of directors, the management is left unchecked.

The committee recommends that the prior year issues be resolved as a matter of urgency. The Board of Directors should be constituted within 30 days of the adoption of this report.

Number seven: Budgetary Control and Performance.

The committee noted in the year ended 30th June, 2022, there was an underfunding of Ksh. 145,091,451 or 36% of the budget. Similarly the committee noted under-expenditure of Ksh. 68,306,709 or 18% of the budget in the statements for comparison of budget and actual amounts. The company did not attain its revenue target by 36% which means the residents of Kericho did not get water which is their basic right as enshrined in the Constitution of Kenya, 2010.

Mr. Speaker, the committee recommends a business re-engineering and restructure to enable the company attains its intended objective of provision of clean drinking water to the residents of Kericho.

Number Eight: Frozen Bank Accounts.

Mr. Speaker, the committee observed that company cash amounting to Ksh.5,669,743 relating to three Kenya Commercial Bank accounts had been frozen due to uncertain litigation hindering operations of the company.

Mr. Speaker, the committee recommends that since the case has been ruled, the committee recommends that the company submit to the departmental committee of the assembly bank statements and the correct status of the accounts within 30 days of the adoption of this report.

Number Nine: Non-Compliance with PFM Fiscal Responsibility. Mr. Speaker, the committee observed that the company has a large number of staff which their production is not commensurate with their output. Staff costs amounted to 63.5% of the total revenue against the recommended 35%.

The committee recommends a business re-engineering and restructure to enable the company operate efficiently and attains its intended objective of provision of clean drinking water to the residents of Kericho.

Number Ten: Non-Compliance with one third Basic Salary Rule

Mr. Speaker, the committee noted that some of the company staff were earning below the one third rule which is contrary to the provisions of Section C.1 (3) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual 2016. In this case, the management failed to comply with the law.

The Committee recommends that the management should be held liable for non-compliance with the law. The management should ensure that going forward, a third basic salary rule should be adhered to.

Number Eleven: Non-Compliance with Law on Ethnic Composition

The committee observed that 96% of the staff employed by the company were from dominant community in the County, contrary to the provision of the National and Integration Act section 7(1) and (2).

Mr. Speaker, the committee recommended that any future recruitment in the company should represent the diversity of the people of Kenya and in compliance with the law.

Mr. Speaker, on the Legal Framework, Article 185 of the Constitution of Kenya, 2010 sets out the roles of the County Assembly which include oversight of the County Executive and its entities such as Kericho Water and Sanitation Company Limited. This Oversight role may be exercised through committees as is stipulated in Section 14 of the County Government Act. The Committee on Public Investments and Accounts Committee derive its specific mandate from Standing Order 200 of the Kericho County Assembly's Standing Orders.

Article 201 of the Constitution outlines the principle of public finance management to be observed at both levels of government and these includes openness, accountability, public participation, prudent and responsible financial management.

**1.** Constitution of Kenya, 2010

The Constitution being the supreme la in the land binds both the National and County Governments.

Article 27 states that every person is equal before the law and has the right to equal protection and equal benefit of the law. The Article further states that equality includes the full and equal enjoyment of all rights and fundamental freedoms. In this instance therefore, the employees absorbed from Tililbei Water and Sanitation Company by KEWASCO are being discriminated by way of non-payment of salaries for close to 19 months as at now. Their rights to fair labor practices under Article 41 have been infringed which is clearly stipulated under sub-article 2(a) that every worker/employer has the right to fair remuneration.

There is evidenced ethnic discrimination when it comes to employment of staff in the company. The company has only employed persons of the same ethnic group which is contrary to Article 27(4) of the Constitution as read together with Section 7(1) & (2) of the National Cohesion and Integration Act. The company cannot be exempted for discriminatory actions unlike private enterprises as it falls under a public entity hence it contravenes the provisions as mentioned.

The committee relied on Article 185 (3) which states that, a County Assembly while respecting the principle of the separation of powers, may exercise oversight over the County Executive Committee and any other county executive organs. KEWASCO being one of the county executive organs, the County Assembly thus plays a key role to oversight the roles, functions of the company inclusive of its administrative activities.

Article 229 (6) states that an audit report shall confirm whether or not public money has been applied lawfully and in an effective way.

2. County Government Act, 2012

The committee was guided as per Section 14(1) of the Act which states that a County Assembly subject to its standing orders may establish committees for general or specific purposes. This committee therefore, derives its mandates from Standing Order 200 of the Kericho County Assembly's standing order.

3. Public Finance Management Act, 2012

Section 166(1) stipulates that an accounting officer should prepare a report to be presented every quarterly to the county treasury by a county Government entity. The same should ensure that the reports contain information on the financial and non-financial performance of the entity.

4. Public Audit Act, 2015

The functions and power of the Auditor-General have been outlined under Section 7 which are additional to those provided as per Article 229 of the Constitution of Kenya, 2010. Among other roles, the auditor general under Section 7(1) (a) has a role to undertake audit activities.

Section 35 stipulates that;

1) *The Auditor-General shall conduct performance audit to examine the economy, efficiency and effectiveness with which public money has been expended pursuant to Article 229 of the Constitution.*

2) *The Auditor –General may undertake a comprehensive performance audit within six months after the completion of any National or County project to evaluate, whether the citizen has gotten value for money in the project and submit the report to Parliament or County Assembly for tabling and debate.*

The auditor therefore, obtained information and explanations which to best of his knowledge and belief were necessary for the purpose of audit.

Nevertheless, on the same, the company did not provide the necessary documents to the committee as requested which is contrary to Section 18 of the County Assemblies Powers and Privileges Act, 2017. Further to this, a person who contravenes the same is liable under the Act pursuant to Section 27 (2) on conviction, to a fine not exceeding two hundred thousand shillings or imprisonment for term not exceeding six months or to both.

**5.** Employment Act, 2007

Section 19 of the Act makes it the duty of the employer to ensure statutory deductions effect and remit as appropriate. It is thus the duty of the company, KEWASCO, as the employer to ensure that its employee, its status notwithstanding that it is compliant with statutory requirements with regard to effecting all statutory deductions for all employees. Such deductions and remittance become apparent where an employer is able to issue an itemized pay statement to each individual employee.

The employees in the company, whose statutory dues have not been remitted, have the benefit of service pay.

**6.** Competition Act, 2010

This is the key statute that regulates mergers and acquisitions in Kenya. It requires that for all mergers and acquisitions to be consummated, there must be authorization from the Competition Authority. It further provides the penalties for the offence of failing to obtain authorization during a merger or acquisition process including penalties and imprisonments.

Merger has been defined as the process where on company approves their combination to form one legal entity. In essence the companies carry on business using one distinct name. On the other end, a takeover or acquisition is where one company purchases the assets and liabilities of another but does not form one entity. To the effect, it can be noted that KEWASCO and Tililbei Water and Sanitation Company tried a takeover that was not approved and did not merge to form one legal entity.

**7.** The Capital Markets Act and Capital Markets (Takeover and Mergers) Regulations, 2002 (Legal Notice No. 126 of 2002)

These regulations provide the steps and approvals required to be followed and secured for one to effect a takeover or acquire controlling interest in any company listed on Kenya pursuant to Part II, Regulation 3. The approvals are sought at the Capital Markets Authority and they are not a replacement to the ones provided by the Competition Authority.

KEWASCO claiming to have acquired Tililbei through a takeover in November, 2018 is an afterthought; there is no proof or evidence to this. KEWASCO should have provided to the committee the approvals form the Authority for certainty but it has gone ahead to turn a blind eye to this matter and plays a blame game for its down fall to Tililbei Water and Sanitation Company.

Office of the Auditor General

The office of the Auditor General is established pursuant to Article 229 of the Constitution whose mandates are within 6 months after the end of each financial year, shall audit and report the financial operations in respect of that financial year. Further, functions of the Auditor General are highlighted in Section 7 of the Public Audit Act, 2015.

The Office of the Auditor-General forwards reports on the financial operations of County Governments and its entities for specific financial years to the County Assembly pursuant to the provisions of Article 229(7) and Section 39 of the Public Audit Act 2015. The reports, once tabled, stand committed to the Committee on County Public Investments and Accounts.

Sittings of the Committee;

The Committee held several meeting including a meeting with the Kericho Water and Sanitation Company Management on 21st March, 2024 where it considered the report of the Auditor-General on Kericho Water and Sanitation Company for the year ended 30th June 2022.

The sittings were primarily investigative and the Committee received evidence from the Kericho Water and Sanitation Company Management team.

Issues for Determination

The main issues for investigation and determination were the various audit queries contained in the report of the Auditor-General on Kericho Water and Sanitation Company for the year ended 30th June 2021 and 30th June, 2022.

This report is issued pursuant to the requirements of Articles 185 (3) (4) and 229(8) of the Constitutionof Kenya and the Kericho County Assembly Standing Order 200.

Guiding Principles

The Committee in arriving at particular recommendations took into account the responses given by the Kericho Water and Sanitation Company Management team and the mitigation measures they proposed. The Committee was further guided by the mandate of the County Assembly pursuant to the provisions of Article 185 (3) & (4) of the Constitution; particularly the need to oversight the Company and check on whether public resources have prudently been utilized. Where any breach of law has an attendant remedy, consequence or penalty in law, recommendations of this report do not preclude any liability that may arise as a result of any legal action within the breach of the prescribed law.

Mr. Speaker, we would like to acknowledge…sorry, Mr. Speaker, let me continue with the Report of the Auditor General for Kericho Water and Sanitation Company for the Year ended 30th June. Mr. Speaker, the legal framework applies in tandem with the two Reports.

Qualified Opinion

**The Speaker (Hon. (Dr.) Patrick Mutai):** So you go to…

**Hon. Vincent Korir (Chairperson County Public Accounts and Investments Committee and Member for Londiani Ward):** Report of the Auditor General for Kericho Water and Sanitation Company for the Year ended 30th June 2022.

**The Speaker (Hon. (Dr.) Patrick Mutai):** Okay. Proceed!

**Hon. Vincent Korir (Chairperson County Public Accounts and Investments Committee and Member for Londiani Ward):** Mr. Speaker, Qualified Opinion: In the opinion of the auditor, except for the effects described in the basis of qualified opinion section of the report, the financial statements presents fairly, in all material respects, the financial position of Kericho Water and Sanitation Company as at 30th June, 2022, and its financial performance for the year ended, in accordance with International Public Sector accounting Standards (Cash basis) and comply with the Public Financial Management Act, 2012 and the County Government Act, 2012.

Basis for qualified opinion

1. Undisclosed Material Uncertainty Relating to Going Concern

The statement of profit or loss and other comprehensive income for the year ended 30thJune, 2022 revealed that the Company recorded a profit before tax of Kshs.6,802,006 which reduced the retained earnings balance from negative Kshs.117,242,257 to negative Kshs.110,440,251. Further, the current liabilities balance of Kshs.268, 161,623 exceeded the current assets balance of Kshs.236, 602,020 resulting to a negative working capital of Kshs.31, 559,603. The Company was therefore, technically insolvent and was unable to meet its financial obligations as and when they fall due.

In the circumstances, this is an indicator of an acute financial challenge facing the Company which raises significant doubt on its ability to continue to operate as a going concern without support from the creditors and the County Government.

Management Response

The management acknowledged that the current liabilities balances exceed the current assets balance. Retained earnings balance reduced in the current financial year and that they have made an effort to reduce the negative working capital figure of Ksh31, 559,603 as compared to the previous financial year.

The committee was further informed that, the company took over the operations of Tililbei Water and Sanitation Company and its assets and liabilities were transferred to KEWASCO in the year 2018. In addition, when devolution started, Bomet Water Company took over the operations within Bomet County which was then under the service area of Tililbei Water and Sanitation Company.

The Company has been operating using two non-cost reflective distinct tariff i.e. for the urban and rural cost centre which did not cover its costs of operations.

Out of the negative retained earnings of Kshs 110,440,251, negative retained earnings Kshs 37,735,997 were transferred from Tililbei Water and Sanitation Company. In addition, out of the current liabilities Kshs 268,161,623, Kshs 100,693,439 was transferred from Tililbei Water and Sanitation Company.

In the short term the management has done the following:

In the current financial year, they managed to reduce trade and other payables through a grant of Kshs 43,093,442 and also the County Government of Kericho gave a subsidy support totalling Kshs 31,814,000 for bulk water and electricity bills.

In the long term the management intends to do the following:

Follow up on the deed of transfer signed stating the asset and liabilities that were shared between Bomet Water Company and Tililbei Water and Sanitation Company. In the deed of transfer Kshs 25,073,379 of the outstanding liabilities as at 30$^{th}$ June 2018 was to be paid by

Bomet Water Company. The management has issued written reminders to Bomet County in regards to the outstanding trade and other payables.

In addition, during the takeover of Tililbei Water and Sanitation Company, Water Services Regulatory Board gave several conditions to be undertaken by the county prior to the takeover and one of them was the County Government of Kericho being the sole shareholder of the two entities was to undertake and settle all the liabilities borne by Tililbei Water and Sanitation Company and a subsidy support agreement was signed. Liabilities amounting to Kshs 65,491,846 were to be paid by the county one off and a continuous monthly payment support for bulk water supply and electricity bills for Tililbei Water and Sanitation Company. A reminder to the County Government of Kericho has been issued to remit the subsidy support as per the subsidy support agreement.

A tariff review has been done and the company currently has a new tariff which became effective in month of March 2023.With the new tariff the management expects an increase in operating revenues.

Last mile connectivity: With the completion of *Duka Moja* Project under the CLOT 3 last mile connectivity is key. Proposals on funding have been developed and submitted to various development partners including the embassy of Japan and SK Kawanishi who have signed an agreement to do last mile connectivity at Ainamoi Area and Belgut area up to the technical Training Institute and last mile connectivity under subsidiary agreement which was signed in January 2023 with *Kreditanstalt fur Wiederaufbau* (KfW).

Committee Observations

The committee observed that the company has been operating under a negative working capital of Kshs.31, 559,603. This is an indication that the company is no longer able to meet its current obligations hence technically insolvent. The company has been making losses continuously to a tune of Kshs.117, 242,257 in financial year 2021. The company also has long outstanding debts which its collection is doubtful. The committee noted that the company needs business re-engineering and restructuring in order to return it to profitability.

Committee Recommendations

The Board of Directors should be constituted within 30 days of adoption of this report.

The committee invites the Water Regulatory Board to look into the operations of the company with the aim of advising the county on the best way to do business re-engineering and restructuring.

Long Outstanding Debtors

The statement of financial position and as disclosed in Note 19 (a) to the financial statements reflects Kshs.217, 008,449 relating to trade and other receivables. An ageing analysis reflected in Note 19 (b) indicates that out of Kshs.217, 008,449, an amount of Kshs.203, 255,899 had remained uncollected for a long period and no provision for bad debts has been reported in the financial statements. The Management did not provide any evidence of any attempts made towards recovery of the debts.

In the circumstances, the recovery of the long outstanding debts amounting to Kshs.203, 255,899 is doubtful.

Management Response

The management acknowledged to having a long outstanding debt of Kshs.203, 255,899. The debtors balances comprises of debts for various water supply schemes as shown in the table on the Report.

From the table, the rural cost centre covers Chesinende, Fort Tenan, Sosiot, Kipkelion, Kapkatet, Kipsitet, Bargeiywet, Londiani, Litein, Sigowet and Bomet schemes having a total debt of Kshs 112,499,186 while the urban cost centre has a debt of Kshs 69,870,262.Out of Kshs 112,499,186 of the rural cost centre Kshs 45,490,212 relates to debtors in Bomet County. Sigowet, Bargieywet and Chesinende schemes are no longer operational and have a total debt of Kshs 6,344,648. Included in other receivables is Kshs 8,100,000 debt (unpaid Share capital) due from the County Government of Kericho and Kshs 3,840,652 as Performance Guarantee to the Water Service Regulatory Board.

Litein Water Supply serving Litein and Kapkatet areas had inconsistencies in water supply due to frequent disconnections of bulk water from Bomet. Additionally, Londiani, Kipkelion and Sosiot Schemes equally had inconsistencies in water supply due to power disconnections.

With these inconsistencies in water supply, revenue collection becomes a great challenge, consequently leading to increase in debt.

Furtherance to this, the frequent damages and destruction of main pipeline networks at some sections by road construction activities, the company had lost a number of customers, whom they can't neither bill nor collect outstanding debts .

In the short term in an effort to reduce the outstanding water debts, the management has done the following:

- Development of a debt management policy.
- Revenue collection strategies have also been put in place to ensure that debts are reduced. Establishment of revenue teams headed by a team leader is in place. Revenue collection is done as per the work plans developed by the team leaders and this has led to reduction in debt in some zones.
- Disconnection of Customers from the main pipeline for dormant customer accounts.
- Adhering to the rationing program during low flows so as to reduce on no water cases. This will improve water supply consistency which in turn increases collection and billing.
- Frequent Rapid Result Initiative to collect revenue which reduced debt.
- Restoration of Water Supply. The management has managed to restore water along Kaptebeswet –Kipsolu road. Also the management has written to the County Government of Kericho Department of roads to restore the damaged pipelines.

In the long term, the management intends to do the following:

- Support the effort by the joint interim committee on the management and expansion/rehabilitation of Litein Water Supply to ensure that there is a permanent solution on bulk water disconnections.
- Collaborate with roads department to ensure there is budgetary allocation for pipeline restoration in affected areas.
- Doing a Following up on compensation/restoration of damaged pipeline by the Dept. of roads

Committee Observation

The committee noted that the chances of collecting some of the long outstanding debts are minimal. These are customers who were inherited from the defunct Tililbei Water Company Limited as well as some urban customers who could be non-performing. The customers could have been disconnected but have made arrangements for a different meter leaving the old meter unpaid.

The committee further noted that these long outstanding debts have put the company in a very difficult financial crisis on top on non-revenue water of 53% during the year.

Mr. Speaker, the Committee recommends that the company should develop a debt recovery strategy on how to collect the outstanding amount and submit the same to the departmental committee of the assembly within 30 days of the adoption of this report.

Unsupported and Doubtful Other Receivables

The statement of financial position reflects Kshs.217,008,449 in respect to trade and other receivables which, as disclosed in Note 19 to the financial statements includes Value Added Tax (VAT) recoverable and other receivables balances of Kshs.8,782,552 and Kshs.11,940,652 respectively. However, as reported in the prior year audit report, the Kshs.8, 782,552 was not supported with any documentation from Kenya Revenue Authority (KRA) and Kshs.8, 100,000 out of the reported Kshs.11, 940,652 relates to purchase of share capital by the County Government of Kericho which had not been paid for and has not been supported by share certificate and an undertaking from the County Government to pay the amount.

In the circumstances, the recoverability of the reported VAT recoverable and other receivables balance of Kshs.16, 882,552 could not be confirmed.

Management Response

The amount of VAT Receivable resulted when water services were VAT exempt and input VAT was claimable. Previously claims were done and the same refunded. The VAT Receivable amount is currently in discussion with the KRA Kericho Office.

Committee Observation

The committee observed that the VAT outstanding of Ksh.8, 782,552 is not supported with any documentations hence could be impossible to claim.

The committee further noted that, the outstanding share capital of Ksh.8, 100,000 has been long overdue and no effort was made to collect the same except a letter written by the managing Director on the date he responded to this report.

Committee recommendation

The committee recommends the VAT amount of Ksh.8, 782,552 to be written off from the books since it is not supported by any documentation. At the same time, no acknowledgement from KRA is provided.

The departmental County Executive Committee Member (CECM) should give an undertaking within 30 days of the adoption of this report to the departmental committee of the assembly on the time they will pay up the share capital of Ksh.8,100,000.

Bank and Cash balance

Overstatement of Customer Deposits Bank Accounts

The statement of financial position and as disclosed in Note 28 to the financial statements reflects Kshs.28, 560,589 relating to customer deposits. Analysis of the three bank statements where customers make meter deposits revealed withdrawals amounting to Kshs.20, 808,877 whose purpose was not explained as withdrawals should only be done at the request of the customer who wishes to withdraw his or her deposit. As at year end, the three bank accounts reflected a total balance of Kshs.7, 751,712 as shown below instead of Kshs.28, 560,589 as reflected in Note 28 to the financial statements. The table shows the banks and their respective amounts. Co-operative Bank has 5,197,374, Kenya Commercial Bank has 1,275,837, Equity Bank has 1,278,501 and the total is 7,751,712.

In the circumstances, regularity of the customer deposits amounting to Kshs.20, 808,877 withdrawn from the three accounts and the completeness of the recorded customers' deposits could not be confirmed.

Management Response

The management explained difference in customer borrowings to have resulted from approved borrowings from the customer deposits accounts to undertake investments.

Customer deposits are refundable to the customers upon request or termination of our services. The amounts under customer deposits refers to deposits of Chemosit Water and Sanitation Company, Tililbei Water and Sanitation Company and Kericho Water and Sanitation Company.

A request to borrow was presented to the Board and justification given for a repayment plan to ensure the money was refundable. In an effort to repay back the amount KEWASCO has had a monthly standing order of Ksh. 100,000 for the last three years.

Committee Observations

Mr. Speaker, Sir, the committee observed that the borrowings were being done to pay salaries and other expenditure and not to invest as stated by the management. The borrowing is still ongoing despite the repayment plan stated above hence the funds may not be fully repaid.

The committee further observed that the amount of Ksh.20, 808,877 is a significant amount of deposits withdrawn representing 73% of the total deposits.

Committee Recommendations

The committee recommends that the company should stop borrowing from the customer deposits account to pay salaries and other expenditure.

The committee further recommends that the customer deposits be put in a fixed deposit account to enable the company earn interest which will increase their revenue.

The committee recommends the company to surrender the current information of the customers' deposits and all the refunds so far and the minutes of the approval of the same.

Frozen Bank Accounts

The statement of financial position and as disclosed in Note 20 to the financial statements. Reflects a balance of Kshs.13, 501,900 in respect to bank and cash balances. However, bank balances amounting to Kshs.5, 669,743 in three (3) Kenya Commercial Bank accounts were frozen due to litigation. The operations of the Company were hindered during the year under review as the amount was not available to the company.

In addition, it is not clear, and management has not indicated when and how the case will be determined.

In the circumstances, the recoverability of the indicated bank balances amounting to Kshs.5, 669,743 could not be confirmed.

Management Response

The management informed the committee that the amounts in the three bank accounts were frozen in the year 2010 through a court order by the board of directors of Chemosit Water and Sanitation Company upon the termination of the service Provision Agreement by Lake Victoria South Water Services Board.

Two court cases were filed and currently the cases were ruled in the favor of Lake Victoria South Water Services Board. However, the committee was informed that the process of unfreezing the accounts is ongoing.

Committee Observation

Mr. Speaker, the committee observed that the company provided false information on accounts being frozen, that the same had been ruled in court on party-party of bill costs in favour of the Defendants where Chemosit Water and Sanitation Company was the Plaintiff (now judgment debtor)

The committee observed that company cash amounting to Ksh. 5,669,743 relating to three Kenya Commercial Bank is to be paid to the decree holders as per the court's ruling dated 5th July 2017

The Committee further observed that the accounts cannot be frozen by the Court or any legal officer where you are required to settle the debt owned. There is no court order on the same served upon the company showing that the accounts were frozen.

Committee Recommendations

Since the case has been ruled, the committee recommends that the company submit to the departmental committee of the Assembly bank statements and the correct status of the accounts within 30 days of the adoption of this report.

The committee recommends further documentations be provided to the departmental committee to prove the said case as the documents provided shows that the bank accounts was to be activated as it was dormant and not as per the court case within 14 days.

Other matters

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipts budget and actual receipts on a comparable basis of Kshs.402,779,269 and Kshs.257,687,818 respectively resulting to an under-funding of Kshs.145,091,451 or 36% of the budget. Similarly, the company expended Kshs.313, 591,293 against an approved budget of Kshs.381, 898,002 resulting to an under-expenditure of Kshs.68, 306,709 or 18% of the budget.

Failure to achieve budget implies that the Company was unable to achieve its set targets, which is delivery of service to the people of Kericho.

Management Response

The management explained that the company did not achieve its budget targets in the financial year under review.

In the case of receipts, revenue is categorized into three sources: the operating revenue, grants income and other income. Out of the performance difference, kshs 55,968,651, the urban cost centre had a variance of kshs 35,349,937 while the rural cost centre had a variance of kshs 19,657,131, while billings for other services contributed Kshs 961,583 out of which reconnection fees had a variance of Kshs 522,800.

In this financial year, revenue projections were done in consideration of the already reviewed tariff which was anticipated to take effect in the second quarter of that financial year but it took longer. In addition, the various schemes were affected by the prolonged droughts reducing the water available for sale, bulk water disconnections at Litein and Kapkatet areas, power disconnections at Londiani, Kipkelion and Sosiot schemes.

On the other hand expenses realization goes hand in hand with the income budgeted. The whole budget was not realized due the above factors.

To mitigate the variance, a review of the budget will be done mid financial year.

Committee Observations

The committee noted underfunding of Ksh. 145,091,451 or 36% of the budget. Similarly the committee noted under-expenditure of Ksh. 68,306,709 or 18% of the budget in the statements for comparison of budget and actual amounts. The committee did not attain its revenue target by 36% which means the residents of Kericho did not get water which is their basic right as enshrined in the Constitution of Kenya, 2010.

Committee Recommendation

The committee recommends a business re-engineering and restructure to enable the company attain its intended objective of provision of clean drinking water to the residents of Kericho.

Unresolved Prior Year Audit Matters

As disclosed under the progress on follow up of the auditor recommendations section of the financial statements, the prior year audit issues remained unresolved. Management has not provided satisfactory reasons for the delay in resolving the issues.

Management Response

The management responded that a number of prior year audit matters have not been fully addressed, however a progressive solution is underway on resolving these concerns and to resolve all the prior matters.

Committee Observations

Mr. Speaker, the committee observed that the prior year issues if not resolved may make the company not to be a going concern since the issues raised are critical. The committee further noted that in the absence of the Board of Directors, there is nobody to check on the management.

Committee Recommendations

The committee recommends that the prior year issues be resolved as a matter of urgency. The Board of Directors should be constituted within 30 days of the adoption of this report.

Basis for Conclusion

1. Non-Revenue Water Management

Review of water production records revealed that the Company produced a total of 3,645,781 cubic meters ($m^3$) of water, out of which 1,729,915 $m^3$ was billed to customers for a total of Kshs.122, 901,729. The balance of 1,915,866 $m^3$ or approximately 53% of the total volume produced represented non-revenue water which was 28% over the allowable loss of 25% in the guidelines issued by the Water Services Regulatory Board (WASREB).

The significant level of non-revenue water of 1,004,421 $m^3$ at an average billing rate of Kshs.72 per $m^3$ may have resulted in loss of sales estimated at Kshs.72, 318,312 which has a negative impact on the Company's profitability.

In the circumstances, Management was in breach of the WASREB Guidelines and may not have officially utilized the resources at the Company's disposal.

Management Response

The management acknowledged that Non Revenue Water (NRW) is higher than the allowable which was 28% above the 25% recommended by Water Services Regulatory Board (WASREB).

The major causes of high NRW in the Company are physical loses and commercial loses. Physical loses are due to leakages, bursts, damaged pipelines and overflows due to gadget failures in our supply network while commercial loses are mainly due to metering anomalies and illegal connections.

The management did the following in an effort to reduce NRW.

In the short term the management did the following:

- Standard Operating Procedures (SOPs): The management has developed standard operating procedures for NRW Management.
- Management has developed NRW reduction plan.
- Re-aligning the NRW Unit into two main teams: one dealing with bursts and leaks and the other dealing with meter servicing, meter and pipeline replacements, meter calibration, terminating cut off accounts and illegal connections. This unit is headed by a supervisor**.**

- Meter Replacement. The latest being 1200 Nos. meters for the Sub District Metered Areas (DMAs) –Mortgage, Majengo and the 116 Nos. top consumers. This was done partly through the support of Gatsby Africa. Additionally, they did meter replacements on customers whose meters are faulty depending on the customer category and type. The cost of replacement of all the meters at once is high and we are seeking partners on this.
- Burst and leaks repairs. Leaks and bursts repairs are being done on time and recorded to enable us prioritize on areas that need pipe replacement and reduce water loses on the same.
- NRW Interdepartmental Committee: The management has also established an NRW Committee which comprises of members selected from all the departments that review and track NRW Reduction activities.
- The management is partnering with the Water Police Unit to deal with defaulters, illegal connections and water theft.
- Carry out Customer Identification Survey( CIS) for all the customers
- Carrying out customer care clinics at our various customer sites. During this visits we create awareness on the need to address challenges of NRW.

In the long term, the management intends to fully implement the NRW Reduction Plan as follows.

- A meter testing bench shall be procured and delivered under the KfW long term expansion program CLOT 3. This will be used to ensure that all meters are accurate in line with NRW management SOP.
- Last Mile connectivity: Implementation of last mile connectivity to Sosiot, Belgut and Ainamoi areas in our service areas by use of the latest technology. This will increase on billing and reduction of NRW in the Long term.

*(Loud consultations)*

**The Speaker (Hon. (Dr.) Patrick Mutai):** Order! As you consult, do so in low tones. Proceed Hon. Vincent!

**Hon. Vincent Korir (Chairperson County Public Accounts and Investments Committee and Member for Londiani Ward):** Thank you! Meter Replacement: KEWASCO intends to procure 500 meters for replacement every financial year to ensure meter efficiency. Further develop proposals for funding to development partners and stakeholders to assist in measures to reduce NRW.

Committee Observations

Mr. Speaker, the committee observed that the company produced 3,645,781 cubic meters of water, out of which 1,729,915 $m^3$ meter cubic was billed to customers representing 47% of the total water produced. 53% of water produced was lost through leakages, bursts, illegal connections and faulty meters.

Committee Recommendations

Mr. Speaker, the non-revenue water is critical issue and the performance of the management should be pegged on the reduction of non-revenue water. The company has continuously failed to reduce the non-revenue water which rose from 52% in the year 2021 to 53% in the year 2023. This is an indicator of poor performance by the management hence their contracts should not be renewed.

Non-compliance with Public Finance Management Fiscal Responsibility Principles

The statement of profit or loss and other comprehensive income and as disclosed in Note 10 to the financial statements reflects expenditure of Kshs.163,953,017 on staff costs which represents 63.6% of the total revenue of Kshs.257,687,818. This is contrary to Regulation 25(1) (b) of the Public Finance Management (County Governments) Regulations, 2015, which requires the County Governments expenditure on wages and benefits for its public officers to be limited to 35% of the total revenue.

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

Management Response

The management acknowledged that the company has high expenditure on staff costs.

Out of kshs 163,953,017 on staff costs kshs 128,083,248 relates to gross salary and allowances for employees and kshs12, 743,542 relates to employers contribution to the pension schemes.

During the financial year under review water production was largely affected by disconnections of bulk water supply from Bomet, power disconnections due to unpaid bills and prolonged drought. The then non-cost reflective tariff also contributed to the reduced revenue. The company has a collective bargaining agreement in place in regards to staff costs.

In the short term the management always encourages staff to go on early retirement. In this financial year the management has had 2 staff request for early retirement. These staff were not replaced.

Consistency in water production will enable the company have an increase in revenue in the financial year. Timely payment of bulk water supply and electricity bills will enable improvement in revenue. Discussions will be held with the County Government of Kericho on the modalities of ensuring uninterrupted power and bulk water supplies to allow revenue improvements.

In addition to the above, the management is working on reducing NRW further which will allow the company to increase its operating revenue. The implementation of the new tariff will largely contribute to operating revenue.

Committee Observations

The committee observed that the company has a large number of staff which their production is not commensurate with their output. Staff costs amounts to 63.5% of the total revenue against the recommended 35%.

Committee Recommendations

The committee recommends a business re-engineering and restructure to enable the company attains its intended objective of provision of clean drinking water to the residents of Kericho.

Non-Compliance with the One-Third of Basic Salary Rule

During the year, it was noted that eleven (11) employees earned a net salary of less than a third (1/3) of their respective basic salaries contrary to Section C.1 (3) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual for the Public Service, 2016, which requires that deductions should not exceed a third of the basic pay.

In the circumstances, the Management contravened Section C.1 (3) of the Public Service Commission (PSC) Human Resource Policies, 2016 and this may expose the staff to pecuniary embarrassment.

Management Response

The management responded that employees are members of Savings and Credit Cooperatives Societies (SACCO'S), and some SACCO's approve loans based on authority from the company and others based on guarantors whom the company doesn't have any control over on the a third rule and the same is later sent to the company to deduct which results in this non-compliance.

The management is reviewing policy and the payroll system to include a provision where if the bank allows a deduction in excess of one third the excess is reverted and the bank informed.

However, the management communicated to all banks offering loans to our employees to ensure that they adhere to the a third of basic pay rule.

Committee Observations

The committee noted that during the year under review, eleven of its staff were earning below the one-third rule which is contrary to the provisions of Section C.1 (3) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual 2016. In this case, the management failed to comply with the law.

Committee recommendation

The management should be held liable for non-compliance with the law. The management should ensure that going forward, a third rule should be adhered to.

Non-Compliance with Law on Ethnic Composition

During the year under review, the total number of employees of the Company was one hundred and seventy-nine (179) out of which one hundred and seventy-three (173) or 96% of the total number was members of the dominant ethnic community in the county. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community.

Management Response

Mr. Speaker, the management responded that most of the staff working at the Company were staff transferred from the defunct Municipal Council of Kericho and the former National Water and Pipeline Corporation and Conservation therefore major recruitment was done before devolved units of Government came into place. However, as we recruit we endeavor to balance the same to reflect the provisions of the National Cohesion and Integration Act 2008.

Committee Observations

The committee observed that 96% of the one hundred and 179 staff employed by the company were from dominant community in the County, contrary to the provision of the National and Integration Act section 7(1) and (2).

Committee recommendation

The committee recommended that any future recruitment in the company should represent the diversity of the people of Kenya and in compliance with the law.

Unremitted Retirement Benefits Obligations

The statement of financial position and as disclosed in Note 26 to the financial statements reflects a balance of Kshs.13,143,036 on current retirement benefit obligations and a balance of Kshs.71,244,161 on non-current retirement benefit obligations. During the audit it was noted that the Company had not remitted employee retirement deductions amounting to Kshs.84, 387,167 as detailed below: In the table, Provident Fund is 61,760,403, National Water and Pipeline Corporation11,955,943, Lap Fund 10,670,821 and a total 84,387,167.

Failure to remit statutory deductions is a breach of the law and may attract penalties and fines to the Company, which will continue to increase liabilities.  No provision for the fines and penalties has been factored in these financial statements. Non remittance of retirement benefit obligation also denies the retirees the due benefit exposing them to unwarranted suffering.

Management Response

The management acknowledged that the company has not remitted retirement benefit obligations. Also, the company has been facing financial challenges due to inconsistent water supply and use of a non-cost reflective tariff.

Out of Kshs 84,387,167 , Kshs 14,773,017 were inherited from Tililbei Water and Sanitation Company.

In the financial year, out of the grants KEWASCO received from Water fund, the company remitted Ksh.8,941,075 to the pension schemes in an effort to reduce retirement benefits obligations. Currently KEWASCO is implementing a new tariff and forecasts will allow the company to reduce on the same gradually over time.

Lastly KEWASCO has made a request to the County Government of Kericho to support the company to clear the outstanding amount.

Committee Observations

Mr. Speaker, the committee observed that the company has not been remitting retirement benefits and statutory deductions for its employees amounting to Kshs.84, 387,167 which is a breach of law. This is a sign that the company is not able to meet their obligations as and when they fall due.

Committee Recommendations

The committee recommended that the company should remit all outstanding retirement benefits and statutory deductions to avoid attracting fines and penalties to the Company as a result of non-remittance of retirement benefits.

The committee further recommends that the county government should honour their obligation of providing subsidy to the company as per the contract signed at the time of merger.

Unremitted Statutory Deductions

The statement of financial position reflects trade and other payables balance of Kshs.224,814,598 which, as disclosed in Note 27 to the financial statements includes employee payables of Kshs.55,678,768 which comprises of unremitted Pay As You Earntax of Kshs.16,997,425, NSSF Kshs.99,854, NHIF Kshs.439,470, salary arrears Kshs.23,122,985 and other deductions amounting to Kshs.15,321,005 relating to Sacco deductions and loan repayments. Management indicated that failure to submit the statutory deductions was occasioned by lack of funds.

Failure to pay statutory deductions is breach of the law and it continues to attract penalties, which continues to increase liabilities to the Company.

Management Response

The management acknowledges existence of Employee payables amounting to Kshs. 55, 678,768 in relation to employees' salaries. The company has been facing financial challenges due to inconsistent water supply and use of a non-cost reflective tariff.

The amounts for NSSF Kshs.99, 854, NHIF Kshs.439, 470 were for the month of June 2022 .The amount in relation to PAYE of Kshs 16,997,425, Kshs 1,721,401 is June 2022 salaries. The balance relates to the financial year 2012/2013 when a CBA was implemented and the amount was due to accumulated arrears.

Other Deductions amounting to Kshs 15,329,005 are loan deductions, insurances and net salaries. Salary arrears of Kshs.23, 122,985 resulted from an outstanding Collective Bargaining Agreement which is yet to be implemented.

In the short term, the amounts relating to June 2022 PAYE, NSSF, NHIF, other deductions were paid .

For the PAYE balance a discussion with KRA on the same on modalities of entering into part payment agreement to clear the same was done.

Committee Observations

The committee observed that the company has not been remitting statutory deductions for its employees which is a breach of law. This is a sign that the company is not able to meet their obligations as and when they fall due.

Committee Recommendations

The committee recommends that the company should remit all outstanding statutory deductions to avoid attracting fines and penalties to the Company as a result of non-remittance.

The committee further recommends that the county government should honour their obligation of providing subsidy to the company as per the contract signed at the time of merger.

Basis for Conclusion

1. Ineffective Cash Management

The statement of profit or loss & other comprehensive income and Note 10 to the financial statements reflect general and operation expenses amounting to Kshs.63, 586,838 which includes domestic travel amounting to Kshs.4, 722,188. The amount represents payments for night out allowances to various Company officers and expensed instead of issuing such officers with imprests which are accounted for after return to duty station.

Management Response

The management informed the committee that the recommendation was noted and currently imprests are being used.

Committee Observations

The committee Observed that the same was as a result of weak internal controls in the company.

Committee Recommendations

The committee recommends that financial regulations and procedures are adhered to at all times.

Mr. Speaker, I now read the Report of the Auditor General for Kericho Water And Sanitation Company for the Year Ended 30th June 2021. Generally, the Reports are almost similar but I will use the shortest time possible to go through the Report. I will not go through the introduction and the definitions. Let me go to the Basis for qualified opinion.

Trade and Other Receivables;

The statement of financial position reflects trade and other receivables balance of Kshs.204, 010,769 which as disclosed in Note 18 to the financial statements includes other receivables of Kshs.8, 100,000 being receivables from shareholders relating to ordinary share capital. However, the register of shareholders was not provided for audit. Further, the Note also reflects an amount of Kshs.8, 782,552 in respect of Value Added Tax (VAT) recoverable that had been outstanding for more than two (2) years and for which acknowledgment by the Kenya Revenue Authority was not provided for audit.

In the circumstances, the accuracy and validity of the reported trade and other receivables balance of Kshs.204, 010,769 could not be confirmed.

### Management Response

The committee was told that, the amount of VAT Receivable resulted when water services were VAT exempt, and the input VAT was claimable. Previously claims were done and the same was being refunded. On the other hand, the Share Capital amount refers to the cost of ordinary share capital that is yet to be paid by the County Government of Kericho.

In the case of VAT Receivable amount, the company is currently in discussion with the KRA Kericho Office while for the unpaid share capital, a reminder letter to the County Government of Kericho for payment of share capital has been sent to the County.

### Committee observation

The committee noted that the there is no evidence or any acknowledgement from KRA that the VAT amount of Ksh.8, 782,552 is due to KEWASCO. This is an indicator that the amount may not be recovered and it is only being recorded in the books to cover for the losses being made by the company.

Furthermore, there is no prior evidence or communication between the company and the County Government of Kericho on the payment of share capital of Ksh.8, 100,000. The register of shareholders was not provided for audit. However, no convincing reason was provided why the documents were not provided to the auditors at the time of audit.

Committee recommendation

The company should write off the VAT amount of Ksh.8,782,552 as bad debts and the books be adjusted accordingly since the chances of it being collected is minimal.

All the documents required should be provided to the auditors in time as per Section 9 of the Public Audit Act 2015. The company should be proactive and avoid reactionary approach to issues. The County Government should pay up for its share capital in the company.

Undisclosed Material Uncertainty Relating to Going Concern

The statement of profit or loss and other comprehensive income reflects an operating loss of Kshs.10, 149,436. The loss resulted to an accumulated negative retained earnings balance of Kshs.117, 228,674 as at 30 June 2021. In addition, the total current liabilities balance of Kshs.346, 794,073 exceeded the current assets balance of Kshs.224,475,275 resulting to a negative working capital of Kshs. 122,318,798. The Company was therefore unable to meet its financial obligations as and when they fall due. The state of affairs is an indicator of an acute financial challenge facing the Company which raises significant doubt on its ability to continue to operate asa going concern without support from creditors and the County Government. However, the material uncertainty in relation to going concern and any mitigating measures put in place by the Company's Directors to reverse the undesirable trend have not been disclosed in the financial statements.

Management Response

The company acknowledged that the current liabilities balances exceed the current assets balance resulting in a negative working capital figure of Kshs122, 3l8, 798.

The committee was informed that the company took over the operations of Tililbei Water and Sanitation Company and its assets and liabilities were transferred to Kericho Water on 2nd of November 2018. Kshs 268,161,623 comprises Provisions for retirement benefit Obligations, trade and other payables, customer deposits, and deferred income. The County Government of Kericho gave subsidy support towards bulk water and electricity for the defunct Tililbei Water and Sanitation company (rural schemes) totalling to Kshs 16,500,000.

Additionally, when devolution came into force, Bomet Water Company was formed and took over the operations within Bomet County which were then under the service provision area of Tililbei Water and Sanitation Company. A deed of transfer was signed enumerating the asset and liabilities that were shared by the two water companies. In the deed of transfer, Kshs 25,073,379 of the outstanding liabilities as at 30th June 2018 was to be paid by Bonnet Water Company and the same is still outstanding despite several written reminders.

Furthermore, during the takeover of Tililbei Water and Sanitation Company by Kericho Water, the Water Services Regulatory Board (WASREB) gave several conditions to be undertaken before the takeover. One of these conditions was that the County Government of Kericho, being the sole shareholder of the two entities, to settle all the liabilities borne by Tililbei Water and Sanitation Company, and a subsidy support agreement was signed. Therefore, the liabilities amounting to Kshs 65,491,846 was to be paid by the County Government as a one-off, and continuous monthly payment support for bulk water supply, Salary harmonization, and electricity bills for Tililbei Water and Sanitation Company.

Also, in the financial year under review, the company operated two non-cost reflective distinct tariffs which didn't cover its costs of operations. A tariff review has been done and the company currently has a new tariff which was rolled out in March 2023. With the new tariff, we expect an increase in revenues which will lead to a break-even for the company in the long run.

During this financial year of review, there was an ongoing water project under the Water and Sanitation Sector Development Programme called Expansion of Water Supply Systems for Kericho Town (New Kimugu Treatment Plant). This project will inject an additional 13,000$m^3$ of water per day which will target areas such Belgut, Ainamoi Centre, Sosiot, Kapkelek, Kapsoit and Kericho town environs, this last mile connectivity will lead to additional water connections and thus increase in billed volume for the Company. This will lead to increase water sales and a positive financial impact on the company. Attached is a progress report for the project as of July 2023.

Committee Observation

The committee noted that the going concern of the company was doubtful and therefore not capable to meet its financial obligation as and when they fall due.

It was further noted that the company has no functional Board of Directors to give strategic direction to the company and its sustainability is in doubt.

Committee recommendation

The County Government of Kericho through department of Water, Environment and Natural Resources should honour its undertaking of supporting the company as per the contract signed during the merging of the two water companies.

The appointment of the Board of Directors should be expedited and the management structure and operations should be looked into and come up with an optimal operating model for the company. The company should embed technology in its operations to cut on cost and theft.

Unremitted Statutory Deductions

The statement of financial position reflects trade payables of Kshs.270,506,842 which as disclosed in Note 24(a) and (b) to the financial statements, includes employee payables of Kshs.55,964,592 comprising of Kshs. 16,537,676 of Kshs.5,635,799 and Kshs.33,791,117 being unremitted Pay As You Earn tax, staff gratuity and unpaid salaries respectively.

Tax offences and non-remittance of statutory deductions may attract penalties and interest leading to increased liabilities.

Management Response

The company has been facing financial challenges majorly attributed to reduced water volumes dueto dry periods, consequently leading to a general reduction in billing. In the case of a rural costcentre, the frequent water disconnection by Bomet County affects billing and revenue collection and the low revenues negatively affect the company's financial base.

The PAYE arrears accrued during the 2014/2015 and 2015/2016 financial years which is as a result of payment of CBA arrears of 2005-2007. The amount of PAYE of Ksh 16,537,676, Kshs 1,555,342 is June 2021 salaries and was paid on the 8th of July 2021. The balance of Kshs 14,982,334 relates to the implemented CBA.

Staff Gratuity of Kshs 5,635,799 is a provision that will fall due at the end of contract of staff members.

Included in the unpaid Salaries of Kshs 33,791,117 is Kshs 19,843,196 relating to salary Arrears for the rural cost Centre for the period after the takeover i.e., November 2018. The balance of Kshs 13,947,921 is payments for net salaries, loan deductions, and other staff payroll deductions for the month of June 2021.
The company has done the following.

a. A request to the County Government of Kericho to settle PAYE arrears has been made and in addition, a payment plan with KRA has been negotiated

b. For the case of salary arrears for the rural cost Centre, a follow-up with the County Government of Kericho to Commit to the subsidy support agreement.

c. A request for an upward tariff review was done in the financial year under review and was approved in the financial year 2022/2023. This will increase billings and thus a reduction inliabilities.

d. Furthermore, with the completion of the New *Duka Moja* Water Project, more water will be available for sale this will lead to increased billings and consequently revenue increase.

Committee observation

The committee observed that the Company has not been remitting statutory deductions every month as per the Law thus leading to unnecessary penalties and interest.

The County Government has not fully honoured its subsidy support agreement

The new tariff was approved as well as the *Duka Moja* project is now fully operational yet the company is still unable to grow its revenues.

Committee recommendation

The committee recommends that the Company should ensure that all statutory deductions are remitted on time to avoid penalties and interest.

The county government should honour its subsidy agreement to the company.

The Board of Directors should be constituted immediately in order to look into the viability of the company and take necessary measures to streamline the operations and bring the company into profitability.

Deferred Liabilities Write-off

The statement of changes in equity reflects as increase of Kshs. 17,007,359 in retained earnings described as deferred liability write-off which, as disclosed in Note 22 to the financial statements, related to creditor balances written-off due to lack of supporting documents and in the absence of claims by the creditors. The funds ought to have therefore been presumed abandoned in accordance with Section 11(1) of the Unclaimed Financial Assets Act, 2011. However, the Company did not make a report to the Unclaimed Assets Authority as provided under Section 20(l) of the unclaimed Financial Assets Act, 2011 which provided that a person holding assets presumed abandoned and subject to the custody of the Authority as unclaimed assets, shall make a report conceming the assets to the Authority. In the circumstances, the regularity of the liabilities write-off could not be confirmed.

Management Response

The committee was informed that, the deferred liability related to creditors that were outstanding at the inception of the Company in the year 2007. The amount was written off with approval by the Board of Directors.

Committee observation

The committee noted that the list of deferred liabilities related to creditors that were outstanding at the time of inception of the company and were only recorded in the books but without proper supporting documents hence ineligible.

Committee recommendation

Based on the information that the management provided to the committee that the creditors are ineligible; the committee agreed with the management decision to write off the said creditors.

Other Matters

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a final receipts budget and actual receipts on a comparable basis of Kshs.360,628,367 and Kshs.235,133,017 respectively, resulting in an under-funding of Kshs.125,495,350 or 35% of the budget. Similarly, the Company expended Kshs.246, 522, 860 against an approved budget of Kshs.350, 634,598 resulting to an under- expenditure of Kshs.104, 111,738 or 30%‹›o of the budget. The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

The company did not achieve its budget targets in the financial year.

In the case of receipts, revenue is categorized into three sources i.e. Sales, grants income, and other income. Out of the performance difference Kshs 125,495,350, Kshs 38,204,826, Kshs 88,719,462, and Kshs (1,428,937) are for Sales, grants, and other income respectively.

In addition, the various schemes were affected by the prolonged droughts reducing the water available for sale, bulk water disconnections at Litein and Kapkatet areas, and power disconnections at Londiani, Kipkelion, and Sosiot schemes. Grants income relating to the subsidy for salary harmonization and statutory deduction were not received in the financial year under review.

In the case of expenditure, most of the costs were not achieved due to the non-achievement of incomes.

Committee observation

The committee noted that the company failed to achieve its target by 30% which is very significant resulting to poor service delivery to the people.

Committee recommendation

The company should strive to provide clean water to all the residents of Kericho since it's their right as enshrined in the constitution of Kenya. The Board once in place should streamline the operations of the company.

Unresolved Prior Year Audit Matters

As disclosed under the progress on follow-up of the auditor recommendations section of the financial statement some of the prior year audit issues remained unresolved as at 30 June 2021. Management has not provided satisfactory reasons for the delay in resolving the issues.

Management Response

Some prior year audit matters had not been fully addressed as they required huge investments. They further informed the committee that, a progressive solution is underway to resolve the concerns and all the prior audit matters. The following are still outstanding audit matters:

a) Unremitted Statutory Deductions
b) Trade and Other Receivables
c) Undisclosed Material Uncertainty Rotating to Going Concern
d) Non-compliance with Public Finance Management Fiscal Responsibility Principles
e) Non-Compliance with the One-Third of Basic Salary Rule

f) Failure to Observe Ethnicity Diversity in Staff Composition

g) High Non-Revenue Water Management

Some of these issues require time to completely address. Nonetheless as an institution, a number of interventions as per the queries have been developed to remedy the issues progressively.

Committee observation

The committee observed that the prior year issues if not resolved may make the company not to be a going concern since the issues raised are critical. The committee further noted that in the absence of the board of directors, there is nobody to check on the management.

Committee recommendation

The committee recommends that the prior year issues be resolved as a matter of urgency. The Board of Directors should be constituted within 30 days of the adoption of this report.

Basis of Conclusion

Non-compliance with Public Finance Management Fiscal Responsibility Principles

The statement of profit or loss and other comprehensive income reflects expenditure of Kshs.137, 020,652 on administration costs and as disclosed in Note 10 to the Financial Statements. The amount includes staff costs of Kshs. 107,076,605 representing 63% of the total revenue of Kshs.169, 178,010. This is contrary to Regulation 25(1)(6) of the Public Finance Management (County Governments) Regulations, 2015, which requires the County Government' expenditure on wages and benefits for its public officers to be limited to 35% of the total revenue.

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

Management Response

The company notes the high expenditure on staff costs and that the issue is historical.

Out of Kshs 107,076,605 on staff costs Kshs 77,585,345 relates to gross salary and allowances for employees and Kshs 7,649,389 relates to employer contribution to the pension schemes. However, the total revenue of Kshs 257,687,818 was largely affected by reduced water billings due to supply disconnection and prolonged droughts

In the case of high staff cost, to reduce it, the Company is currently not replacing any staff who retires from service. Additionally, with the efforts and mitigation measures put in place to reduce Non-Revenue Water they expect the interventions to bear fruits, the company will increase its operating revenue. The implementation of the new tariff will also largely contribute to an increase in operating revenue.

Committee observation

The committee observed that the company total revenue was Kshs. 169,178,010 of which Kshs. 107,076,605 was used to pay expenditure on wages and staff benefits which is 63% of the total revenue contrary to the regulation of the Public Finance Management Act, 2015 which states that the expenditure on wages be limited to 35% of total revenue.

Committee recommendations

The committee recommends that the company should have a system to improve on their revenue collection by checking on those clients with huge water bills and making arrangements on the settlement mode of payment to avoid disconnection.

The company also should develop a robust mechanism of getting feedback from clients as well as for reporting water leakages, bursts and illegal connections. The company should also find a mechanism to control collusion of their staff and clients to have illegal connections or non-disconnection of water when clients continually accrue the water bills leading to huge uncollected debts.

Non-Compliance with the One-Third of Basic Salary Rule

During the year ended 30 June 2021, six (6) employees earned a net salary of less than a third (1/3)of their respective basic salaries. This is contrary to Section C.1 (3) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual for the Public Service, 2016. In the circumstances, the Management was in breach of Regulations and may have exposed the staff to pecuniary embarrassment.

Management Response

Most employees are members of Savings and Credit Cooperatives Societies (SACCOS), these Sacco's approve loans to KEWASCO staff based on guarantors not necessarily the company as a guarantor leading to this non-compliance on the one-third rule.

In the meantime, the company has written letters to the affected members of staff and banks informing them of this matter of pecuniary embarrassment.

Committee observation

The committee noted that during the year under review six(6) of its staff were earning below the one third rule which is contrary to the provisions of Section C.1 (3) of the Public Service Commission (PSC) Human Resource Policies and Procedures Manual 2016. In this case, the management failed to comply with the law.

Committee recommendation

The management should be held liable for non-compliance with the law. The management should ensure that going forward, a third rule should be adhered to.

Failure to Observe Ethnicity Diversity in Staff Composition

A review of the staff establishment and documents provided for audit revealed that over ninety-six 96% of the one hundred and sixty-eight (168) staff employed by the Company were from the dominant community in the County. This is contrary to the provisions of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which provides that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public establishment shall have more than one-third of its staff from the same ethnic community.

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

Management Response

Most of the staff working at the Company were staff transferred from the defunct Municipal Council of Kericho and the former National Water and Pipeline Conservation Corporation therefore major recruitment was done when the defunct Municipal Council of Kericho was in operation. However, all the current recruitments are done competitively through adverts in the local newspaper. Additionally, all the shortlisting and interviews also meet the criteria of competitive recruitment. The endeavor of the Company has always been to adhere to the provisions of the National Cohesion and Integration Act 2008.

Committee observation

The committee observed that 96% of the one hundred and sixty eight staff employed by the company was from dominant community in the County, contrary to the provision of the National and Integration Act section 7(1) and (2).

Committee recommendation

The committee recommended that any future recruitment in the company should represent the diversity of the people of Kenya and in compliance with the law.

Non-Revenue Water Management

A review of water production records revealed them the Company produced 4,089,024 cubic meters ($M^3$) of water equivalent to Kshs.265, 786,560 at Kshs.65 per cubic meter of water out of which 1,969,099 $m^3$ equivalent to Kshs. 127,991,435 was billed to customers. The balance of 2, 1l6, 875 $m^3$ or approximately 52% represented non-revenue (unaccounted for) water equivalent to Cost sales of Kshs. 137,795,125. The non-revenue water was also 27% over and above the 25% allowable loss prescribed by Water Services Regulatory Board (WASREB) Guidelines.

In the circumstances, Management was in breach of the WASREB Guidelines and may not have efficiently utilized the resources at the Company's disposal.

Management Response

The committee was told that, NRW was the biggest challenge facing the company and it is higher than the allowable which is 25% recommended by Water Services Regulatory Board (WASREB).

For KEWASCO's system, there are two major causes of high NRW these are physical losses and commercial losses. Physical losses are due to leakages, bursts, and overflows through the existing old and dilapidated supply network while commercial losses are mainly due to metering anomalies and illegal connections. Most of the Company's supply systems have outlived their useful lives and design periods but we are still using them for service delivery.

To manage our NRW, first, we have developed NRW Reduction Plan and created District Metered Areas (DMAs) and Sub-DMAs to subdivide this supply area into small manageable areas to help prioritize NRW reduction activities. These DMAs and Sub-DMAs have enabled the company to measure NRW monthly by a dedicated NRW Unit *(Annex 12 NRW Reduction Plan).*

This plan is a step-by-step strategy of carrying out system input metering, water balance, mapping out leak and burst repairs, and customer metering among others. The Baseline NRW in the NRW Plan was 57% in 2019 and this is expected to reduce to 44% in 2025 if there is a complete implementation of all the activities in the Plan. The total cost projection to the Plan's activities is Kshs. 95,638,170.

The NRW Unit has been anchored into the Company's organo-chart and has been re-aligned into two main teams: one dealing with bursts and leaks and dealing with meter servicing, replacements, terminating cut-off accounts, and illegal connections. Further to this, we have also established an NRW Committee which comprises a team from all the departments. The committee holds quarterly meetings to evaluate the outcome of our interventions. The committee gives recommendations and follows up on them.

Secondly, is the development of the Standard Operating Procedure (SOP) for the management of NRW and ensuring that it is on reducing trend, and all activities are coordinated, and the decisions are data driven. Four (4) main procedures are being followed at the Sub-DMA and DMA to manage NRW depending on the Company's NRW level. These procedures broadly focus on consumer meters, Customer Identification Surveys (CIS).

With the implementation of SOPs, through the introduction of job cards, assigned repair works are now completed on time thus reducing response time to leaks and bursts thus minimal physical losses in our network. However, with the old pipe network, we do pipe replacements in a small scale due to high cost on overhaul, but major replacements must be done to reduce NRW drastically.

Due to financial constraints and cash flow problems that the Company is facing, the Company has developed proposals to various development partners and the County Government of Kericho for finding of the NRW reduction activities as per the NRW Plan and the SOPs.

One of the partners that have come on board is Gatsby Africa which has helped KEWASCO purchase about 1,034 consumer meters for replacement. The targeted areas were Majengo, Mortgage, and Top consumers

Finally, under the upcoming water and sanitation program, a proposal to replace all the pipelines in Kericho and parts of Litein town is key and the same will lead to reduced NRW. Additionally, a meter testing bench has already been delivered under the ongoing project, and with this, the accuracy of meters will be ensured.

In conclusion, the Company is headed in the right direction in terms of reducing and managing Non-Revenue Water. Awareness creation and sensitization of all staff in the company have been done with some of the staff being incorporated into the NRW Committee. However, more resource mobilization and support is required to finance the activities stipulated in the NRW Reduction Plan to reduce NRW to acceptable levels.

Committee observation

The committee observed that the company produced 4,089,024 cubic meters of water, out of which 1,969,099 meter cubic was billed to customers representing 48% of the total water produced. 52% of water produced was lost through leakages, bursts, illegal connections and faulty meters.

Committee recommendation

The non-revenue water is critical issue and the performance of the management should be pegged on the reduction of non-revenue water. The company has continuously failed to reduce the non-revenue water which rose from 52% in the year 2021 to 53% in the year 2023. This is an indicator of poor performance by the management hence their contracts should not be renewed. Thank you very much Mr. Speaker. I wish to table the Report. Thank you!

*(Loud consultations)*

**The Speaker (Hon. (Dr.) Patrick Mutai):** Order Honourable Members! Thank you the Honourable Chairman, Public Accounts and Investments Committee. The Motion ought to be seconded, right? Who will second?

**Hon. Vincent Korir (Chairperson County Public Accounts and Investments Committee and Member for Londiani Ward):** Mr. Speaker, I call upon Hon. Eric Bii to second.

**The Speaker (Hon. (Dr.) Patrick Mutai):** Hon. Eric Bii!

**Hon. Eric Bii (Member for Kaplelartet Ward):** Thank you Mr. Speaker for giving me this opportunity just to second the Motion tabled by Hon. Korir. Before then, allow me to first of all thank the committee headed by Chair Hon. Korir and to also thank your office for allowing the committee to operate on this weighty report. I want to ventilate on three issues. First, we know water is life and since this report was audited in the year 2021, end of the Financial Year 2021/2022, I think it has taken a long time. This is a report which was carried out in the previous regime. Mr. Speaker we have seen so many issues that are touching the company which is owned by our county. This company Kericho Water and Sanitation Company (KEWASCO) has been an elephant in the house. We have three issues which have not been streamlined well. We have seen that the company is making a lot of losses. For any other company to exist and work, it should have a Board.

From the report we have been given, the company is working on a negative capital enhancement whereby in every month, in the beginning of every year, the company uses a negative capital and when you see any other company that has a negative capital it tells you that this company is making a lot of losses. I think what has contributed to these losses is the board which was not constituted legally. They have not been giving the advisory to the company in terms of negative advancement. I want to believe that the report has captured in the recruitment of the board within 30 days, but I have seen that the board has been advertised and is yet to be reconstituted. Secondly we have the issue of non-compliance with the PFM Act which guides any institution in terms of staff. We have seen this company has around a percentage of about 65 of staff which means their only revenue collection is going to the salaries. The legally stipulated law for establishment for staff should be below 35. When you less 35 from 65, it is still a lot staff within this company, meaning they are making a lot of losses.

There is an issue which is very important: The non-compliance and remittance of the statutory deductions. We have seen the company has not been remitting their deductions which are to be used to amend the NSSF and NHIF, meaning they are still making a lot of losses. Lastly we have seen the issue of the merger. I think what contributed to this issue is the merger with Tililbei. During the merger, I think the debt which was being carried by Tililbei was transferred to KEWASCO and they brought a lot of debt to this company. I believe that we have to relook at the issue of the merger; whether it was done legally or illegally. We have to review so that we can see the debts that KEWASCO has. We have seen in this House, every budgetary allocation every year we are giving a lot of waivers. For example last year we gave around 31 million. This subsidy never even assisted the company, so I want to believe we have to relook at the issue of merger and see how we can be able to assist this company. If we allow this mess to continue, KEWASCO will be closed down. All counties have their water companies in place and they have to streamline to fill all the leakages in the company. I want to second this report and request Honorable Members to support. Thank you Mr. Speaker!

**The Speaker (Hon. (Dr.) Patrick Mutai):** The Majority Leader, Hon. Phillip Rono, you can proceed with your Point of Order.

**Hon. Phillip Rono (Majority Leader, Member for Kamasian Ward):** Thank you very much Mr. Speaker for the opportunity. Allow me before I proceed to use the same opportunity to welcome the students from our school in the area led by Hon. Martin and to inform them that they are welcome to the County Assembly of Kericho, which is a complete replica of the National Assembly. I know it is a learning session and they will get the best out of this place. I have just risen on a Point of Order, no. 34, 1 (a) which says

*A member may at any time, for reasons stated, seek leave to move "That, this Assembly do now adjourn."*

Maybe before we came for this Third Assembly, I am privileged that in the Second Assembly, I led the committee on Water, Environment, Forestry and Natural Resources and during the merger of KEWASCO and the then Tililbei Water and Sanitation company, that was based in Litein, we did a merger and a function at Rays Hotel and finally we concluded the same at the Kericho Green Stadium, that is now named Kiprugut Chumo. I still remember I moved a Motion in this County Assembly that we award 50 million to KEWASCO after the merger for what we were terming as salary harmonization between those people that were serving in the rural schemes and those that were serving in the urban schemes. The House did approve 50 million but the County Government ended up, and as I remember Mr. Speaker you were the then County Executive Committee Member (CECM) for Finance and Economic Planning and you were a member of the Board of KEWASCO, together with the CECM for Water, Hon. Geoffrey Ruto. They only paid money amounting to 16 million.

However that is not actually the reason for the adjournment of this one. I know the issues surrounding the country, if you look at the members of the County Assembly; everybody is looking at what is going on in the country and the expectations concerning what is going on the obvious; The advertisements from the much known generation. Allow me Mr. Speaker that I request the Honorable Members that we adjourn this Motion to tomorrow as I request each and every member to go home with a copy of the report and we analyze and postpone the debate until tomorrow morning then we come for a very serious debate which will result in conclusions. This one will bring problems that are being faced by KEWASCO to an end. We have read several challenges on the issue of salary; we have the issue of liabilities, remittance of statutory deductions that have not been remitted amounting to 50 million. I kindly invite that each and every one of us go through the report and then tomorrow we assist the Committee on Water. I know they have tried their level best but the challenges within KEWASCO are not something that can be solved in an hour. I know that they advertised for the members of KEWASCO but as per the law, they are also facing numerous challenges in filling the same board members. I kindly invite my colleagues Honorable Members that we adjourn to tomorrow so that we go and read the report and come back tomorrow for a serious debate session. Mr. Speaker you will allow us when we will be sitting in the House Business Committee, tomorrow morning session to be available only for this important occasion. I kindly request the Hon. Deputy Speaker (DS) and the Member of Kipchebor Ward to second my Motion.

**The Speaker (Hon. (Dr.) Patrick Mutai):** Thank you the Hon. Leader of Majority. Before I give to the Honorable Deputy Speaker to second the Motion, I think you are within the Standing Orders to move the Motion of Adjournment. It should be very clear that we are adjourning the debate, not the Assembly and that also falls under the Standing Order No. 63

sub section (b), which is a motion moved without notice. Hon DS, I will give you so that you second and then I will give direction because we also have visitors from Kapkugerwet Ward.

**The Deputy Speaker, Hon. Eric Bett (Member for Kipchebor Ward):** Thank you Mr. Speaker for giving me this chance to second the Adjournment Motion of the debate. Allow me also to join my colleagues to welcome the students from Sumeiyon School in Kapkugerwet Ward and I hope they are learning from this session today. Having listened to this report and looking at what the Chair has done, I must commend him. This is a report of its own kind in terms of what they have highlighted. I do agree with the Leader of Majority that this should be given a wide thought in terms of correspondence and also a bit of research. So the fact of having this proposal that this goes to tomorrow, will allow members to look through the report and do research.

I also believe we have copies of the report in this Assembly and we can still refer and look at the critical details so that tomorrow when we come, we will really come and have a very impactful debate which will help once and for all because the KEWASCO issue has been a thorn in the flesh for a long time and I think it requires justice. All of us should come fresh in the morning and be able to debate this. I do support because if I was to go through this report I would require about half an hour to contribute as Deputy Speaker and also as the MCA for Kipchebor Ward. So if you will allow us, I will be able to highlight and give the real issues in just the few minutes given to me. So I do support, given the fact that this report is important, I do support the adjournment until tomorrow morning. Thank you.

**The Speaker (Hon. (Dr.) Patrick Mutai):** Alright thank you Hon. DS**.** Before I rise to put the question on adjourning this debate, the Hon. Martin, I will give you an opportunity because the guests in the gallery are from your place, so that you can use the opportunity to welcome them.

**Hon. Martin (Member for Kapkugerwet Ward):** Thank you very much Mr. Speaker, Sir, for giving me this opportunity and by extension to the people I represent of Kapkugerwet Ward. Before welcoming the students and teachers of Kapkugerwet Ward, I want to support the Motion of Adjournment of the Motion that has been tabled by Hon. Vincent Korir because it has some weighty issues which require more time for discussion. Mr. Speaker, allow me now to welcome the teachers and students from Sumeiyon Junior Secondary School. I am very happy that you are here for the learning process. I know that you have picked some of the things we have seen here. I want to say this is a House of rules and procedures and is also a replica of the National Assembly. Here we do oversight, we do representation and legislation. I want to say that as you aspire to become leaders in future, this is the right place for you to learn and I want to say you are most welcome. I know after the session you will have some time to learn more. I wish you well work hard in school because everything is possible. Education is an equalizer and I am happy that you are here. Otherwise you are most welcome and thank you so much Mr. Speaker, Sir.

**The Speaker (Hon. (Dr.) Patrick Mutai):** Alright. Thank you so much Honorable Members.

*(Question put and agreed to)*

Honorable Members, just to guide you, is that we shall resume the debate where we have stopped tomorrow morning at 9.30a.m. being Wednesday July 2024. Let me further take this opportunity to request the Chairman Education Committee, Hon. Cheruiyot Bett and the Education Committee members plus the area MCA for Kapkugerwet Ward to take a minute or two to welcome the pupils and teachers from Sumeiyon Junior from Kapkugerwet Ward after this session. So the Hon. Chairman, Cheruiyot Bett, are you willing to welcome the visitors? Thank you so much.

## ADJOURNMENT

Honourable Members there being no other Order of Business, this Assembly stands adjourned until 2.30p.m.

*[The House rose at 12.03p.m.]*