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HIGHLIGHTS OF THE DRAFT ENERGY POLICY 2025 AND POWER UNDERTAKING LICENCE REGULATIONS

HIGHLIGHTS

In February 2025, the following were the major developments in the Energy and Natural Resources sector in Kenya:

- The Ministry of Energy and Petroleum recently published the draft National Energy Policy 2025-2034 that would provide a 10-year roadmap for Kenya's energy sector. The policy amongst others promotes the opening up of Kenya's electricity sector, renewable energy generation, utilization of emerging technologies such as green hydrogen and Internet of Things (IoT) and participation in carbon markets.
- Gazettment of the Energy (Electric Power Undertaking Licensing) Regulations 2024 that apply to all persons engaged in electricity exportation, importation, generation, transmission, distribution and retail supply.
- Kenya's electricity demand hit an all-time peak of 2,316MW in mid-February, highlighting the need for government to fast-track the implementation of power generation projects.
- The Ministry of Energy and Petroleum recently rolled out the 7th Cost of Service Study as a precursor to the statutory review of electricity tariffs by the Energy and Petroleum Authority (EPRA), with new tariffs set to be published in January 2026.
- The Kenya Electricity Generating Company (KenGen) is looking to build a battery energy storage system (BESS) for its solar power plant at the Seven Forks Dams. This will help improve grid stability by addressing the intermittency of renewable energy technologies.

1) Draft Energy Policy 2025-2034

The Ministry of Energy and Petroleum recently published the draft National Energy Policy 2025-2034 that would provide a 10-year roadmap for Kenya's energy sector. The overarching objective of the draft Policy is to provide reliable, competitive, affordable and sustainable energy to support national development and just energy transition.

Key highlights of the draft Policy are as follows:

- **Universal electricity access**: The Policy notes significant challenges towards achieving universal access to electricity including high grid expansion costs. To mitigate this, it stipulates that the government will amongst others finalize the regulatory framework for development and operation of mini grids and off-grid solutions, make electricity tariffs more affordable through innovative pricing models and collaborate with development partners for electrification funding.
- **Renewable energy development**: The Policy seeks to enhance Kenya's vast renewable energy resources, including hydro power, geothermal, solar, wind, and bioenergy into the national energy mix.
- **Emerging technologies** such as green hydrogen, Internet of Things (IoT), carbon capture and advanced energy storage systems are recognized in the Policy for their ability to enhance grid stability and diversify the energy mix. The Policy sets out the government's commitment to fund research and development and establish partnerships with the private sector, and

international organizations to support emerging technologies development.

- **Energy Transition and Climate Change-** The Policy notes the important role that energy transition plays towards climate change mitigation and economic resilience. As Kenya moves towards a low-carbon economy, the government to net-zero emissions by 2050. It prioritizes a just energy transition, ensuring vulnerable communities benefit from clean energy solutions. Further, it promotes decentralized renewable energy solutions such as mini-grids and micro-grids to provide equitable access to clean energy.

Key Implications

⇒ The Policy prioritizes universal electricity access by 2030, requiring significant investment in grid expansion, off-grid solutions, and mini-grid systems to reach rural and underserved communities. This will create opportunities for private sector participation in electrification programs, while also requiring government agencies to improve infrastructure planning, financing, and implementation.

⇒ With a strong focus on renewable energy sources such as geothermal, wind, solar, and bioenergy, the policy seeks to diversify Kenya's energy mix and reduce reliance on fossil fuels. This shift will attract new investments in clean energy projects, encourage the development of green hydrogen and energy storage systems, and drive technological innovation in the sector.

⇒ Promote an open and competitive electricity market. The policy promotes a transition from a single-buyer model to a competitive electricity market, enabling greater private sector participation and fostering market-driven electricity pricing. This move will enhance efficiency, encourage innovation, and provide consumers with more choices while ensuring an affordable and reliable power supply.

⇒ Climate Change Mitigation and Carbon Market Integration. Aligning with Kenya's commitment to the Paris Agreement and Sustainable Development Goals (SDGs), the policy integrates measures to reduce greenhouse gas emissions and promote climate resilience. It encourages participation in carbon markets, providing incentives for businesses investing in sustainable energy projects while ensuring a just energy transition that supports vulnerable communities.

2) The Energy (Electric Power Undertaking Licensing) Regulations 2024

In late February 2025, the Cabinet Secretary for Energy gazetted the Energy (Electric Power Undertaking Licensing) Regulations 2024, which repeal the 2012 Energy (Electricity Licensing) Regulations.

Key highlights of the 2024 Regulations include:

- **Application:** The new regulations apply to all persons engaged in electricity exportation, importation, generation, transmission, distribution and retail supply, except where (i) Electricity generation is for own use and the capacity does

not exceed 1MW; (ii)Electricity is generated for supply to isolated mini-grids, provided that the capacity does not exceed 1 MW; and (iii)The generation is used as a back-up

- **Licence Categories**: The Regulations set out five licensing categories: Generation Licence, Transmission Licence, Distribution Licence, Retail Supply Licence and Export/Import Licence
- **Licensing requirements**: A licence application under the Regulations must be preceded by a notice of fifteen days by public advertisement in at least two newspapers of nationwide circulation. The application is to be submitted online together with two hard copies delivered to the Energy and Petroleum Regulatory Authority (EPRA) by prepaid post.
- **Hearing of objections:** The regulations set out the procedure for hearing of objections to the issuance of a power undertaking licence. Objections may be submitted no later than 45 days after the public notice. This however contradicts the 30 -day timeline set out in Section 119 of the Energy Act. Since the Regulations are subsidiary to the Parent Act, the Act will prevail in this regard. Where a hearing is conducted, EPRA must communicate its decision within 30 days.
- **Grant of licences:** Under the regulations EPRA is mandated to inform an applicant within 15 days of an application whether the application is complete. Subsequently, once an application is deemed complete, the same must be processed within 60 days. EPRA must give reasons for refusal to grant a licence within 7 days of the refusal.
- **Licence fees:** once a licence is granted, an applicant must pay the licensing fees within 30 days. The licensing fees are similar to those set out in the 2012 Regulations.
- **Renewal:** Applications for renewal of a licence must be submitted no later than 36 months prior to expiry.
- **Transfer of licence**-a change in controlling interest of a licensed undertaking must be approved by EPRA. This includes decrease of the licensee's share capital, acquisition of more than 50% of licensee's share capital by a third party or increase/decrease of a licensee's authorized or paid-up capital.
- **Compliance**: licenced undertakings must provide reports to EPRA on the technical and financial performance as required by EPRA.
- **Inspections**- EPRA may carry out routine inspections of the operations of a power undertaking subject to issuance of a 7 days' notice. However, where there is suspected violation of the Act, Regulations of conditions of licence, an enforcement audit may be undertaken without notice. EPRA may issue a compliance order where the Regulations have been breached. Failure to abide by the compliance order amounts to an offence.
- **Offences**-the regulations set out various penalties for breach of the Regulations, including operating a power undertaking without a licence, non-compliance with licence

conditions etc. The general penalty is a fine of not less than KES 100,000 upon conviction. These offences were not set out in the 2012 regulations.

Key implications

⇒ The new regulations are welcome as they ensure alignment of the subsidiary legislation with the Energy Act, 2019. The 2012 regulations were outdated and, in some instances, contradicted the Energy Act.

⇒ However, the requirement that renewal applications be submitted no later than 36 months to the expiry of a licence is unduly burdensome. This timeline is too long and wholly unnecessary as EPRA only requires approximately 60 days to process a renewal application, as evidenced by the time required for new applications.

⇒ The new regulations call for increased compliance by power undertakings as stiff penalties for non-compliance are imposed as well as routine inspections by EPRA.

3) Kenya's electricity demand hits peak

Over the past three years, Kenya's peak electricity demand has been steadily growing reaching an all-time high of 2,316MW on February 12, 2025. The country's installed capacity stands at 3,243M with an effective capacity of 3,056MW. This growth is likely to continue amid new projections by the International Energy Association (IEA) that Kenya's electricity demand would grow at an annual rate of 6.5% between 2025 and 2027-double the 3.2% growth recorded over the six years from 2018-2024.

The rise is electricity demand is attributed to expanding grid infrastructure, such as the recent completion of the Kimuka 220/66kV substation by KETRACO. The gains from the completion of these projects have been complemented by increased connection of new customers to the grid and growing e-mobility adoption.

Key Implications

⇒ Lest the government fast-tracks the implementation of power generation projects, demand is likely to outstrip supply in the near future leading to disruptions such as load shedding and power rationing. There is therefore need for the government to expedite the completion of the pipeline of power projects across the country to ensure sufficiency.

⇒ The rise in electricity demand is likely to incentivize the lifting of the moratorium on new Power Purchase Agreements (PPAs) that was imposed by the National Assembly in April 2023. This will spur private sector investment in power generation in the country.

⇒ The likelihood of potential disruptions from insufficient power supply is also likely to spur the increase in captive power generation to lessen grid reliance. This will further be made possible by the 2024 Energy (Net Metering) Regulations which allow businesses and individuals generating renewable energy up to 1MW to send excess electricity back to the grid and earn credits.

4) EPRA Tariff Review

The Energy and Petroleum Regulatory Authority (EPRA) is set to publish a new Energy Tariff schedule in early January 2026 as part of its statutory mandate to review electricity tariffs every three years. The last Tariff Schedule was published in January 2022.

As a precursor to the statutory tariff review, the Ministry of Energy and Petroleum recently rolled out the 7th Cost of Service Study for the Electricity sub-sector in Kenya. This study will assess the cost of generating, transmitting and distributing electricity in the country and findings from the study will support EPRA in the review of electricity tariffs applicable for the 2026-2028 Tariff Control Period.

Key Implications

Drafts of the Tariff schedule are likely to be published for public comments before Q4 of this calendar year 2025. There is therefore a window of opportunity for lobbying during the 7th costs of energy study and the development of the draft tariff schedule by industry players for favourable tariff classification.

5) KenGen to build BESS for Solar Plant

The Kenya Electricity Generating Company (KenGen) is looking to build a battery energy storage system (BESS) for its maiden KES 8.8 billion solar power plant at the Seven Forks Dams. Financed by the French Agence Francaise de Developpement (AFD), the BESS will have a capacity of 3MW/4.5MWh and will be the second such facility in Kenya after the 52-megawatt Peak (MwP) set to be installed by the UK-based renewable power firm, Globeleq.

The development of the BESS comes at a time when the government is considering a recommendation by the National Assembly's Departmental Committee on Energy in a report titled "Report on the Inquiry into the Matter of the Reduction of Electricity Costs in the Country" to the effect that that all wind power and solar projects should include BESSs to ensure they support the grid during peak demand.

Key Implications

⇒ The development of battery energy storage systems will help improve grid stability by addressing the intermittency of renewable energy technologies such as solar

⇒ BESSs will also reduce the need for dispatch from thermal plants during peak demand, hence promote the achievement of Kenya's target of a fully clean grid by 2030.

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