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HIGHLIGHTS OF THE DRAFT ROAD TOLLING POLICY AND OTHER SECTOR DEVELOPMENTS

HIGHLIGHTS

In February 2025, the following were the major developments in the PPPs, Infrastructure and Transport sector in Kenya:

- The Ministry of Roads and Transport has introduced the Draft Road Tolling Policy 2025 aimed at mitigating the infrastructure financing deficit for the roads sector. Road tolling will help the government to close the roads infrastructure financing gap but also increase transport costs for consumers.
- Per the recently announced Budget Policy Statement 2025, the government is looking to fast-track the implementation of the Mass Rapid Transit System (MRTS) and the Bus Rapid Transit System in the Nairobi region which will increase transport efficiencies.
- The Kenya Electricity Transmission Company (KETRACO) is on the verge of signing a PPP deal with Africa 50 and India's PowerGrid for the development of two transmission lines. This comes less than three months from the collapse of the KETRACO-Adani PPP deal. PPPs thus still remain a viable option to mitigate the infrastructure gap in the electricity transmission subsector.
- The National Treasury is looking to review the PPP Programme in Kenya including the suitability of processes used in identifying and procuring PPPs in Kenya. This comes off the back of warnings by international partners such as the World Bank, cautioning against unsolicited deals which have in the recent past triggered public protests.

1) Draft Road Tolling Policy, 2025

In February 2025, the Ministry of Roads and Transport introduced the Draft Road Tolling Policy aimed at mitigating the infrastructure financing deficit for the roads sector, which stands at KShs 1.8 trillion and 4.0 trillion for the 5-year and 10-year planning periods. The Road Maintenance Levy currently imposed on motorists at the rate of Sh 25 per litre of diesel and petrol has been deemed inadequate to fund road network development and maintenance especially given the rise of electric vehicles in the country and the lack of regular indexation of fuel levy rates to inflation. Tolling is thus identified as a means to raise additional funds directly from road users in a cost-effective and equitable manner that contributes to the sustainable development, maintenance, and rehabilitation of Kenya's road network.

Presently, only the Nairobi Expressway attracts toll charges. The project has been hailed as being the first successful self-financing infrastructure and the draft Policy aims to replicate these benefits by tolling other roads. Among the roads targeted for tolling include the four bypass roads in Nairobi, Thika Road, Kiambu Road and Mombasa's Dongo-Kundu bypass.

The key highlights of the draft Policy are as follows:

i) ***National Tolling Authority***- establishment of a National Tolling Authority to be responsible for the management of the Toll Roads under the purview of the National Government.

ii) ***Private Toll Operators***- the National Tolling Authority will have the option of outsourcing the management of certain Toll Roads to Private Toll Operators. Where appropriate and economically sustainable, revenue risks will be allocated to private toll operators with the possibility of Government Support Measures to mitigate revenue risks.

iii) ***Selection of toll roads***- Tolls to only be introduced on roads which require user charges to be financially viable and (i) are newly constructed or on crossings involving other means of transport; or (ii) have been improved relative to their previous standard; or (iii) are of a higher quality than untolled roads; or (iv) may not have been recently improved but there is a clear rationale for tolling. Estimated cost of collection of tolls should be less than 15% of the total projected revenue for a road to be considered for tolling.

iv) ***Toll-free alternative***- roads on which tolls are collected will not be required to have a dedicated toll-free alternative route. Public acceptability considerations will be addressed through toll levels, discounts and phased introduction of tolls.

v) ***Toll Tariffs***- to be based on various factors including the cost of developing, maintaining and rehabilitating the road network; Willingness to Pay Survey, benefits to road users, existence of an alternative routes etc. The Cabinet Secretaries for Roads and Finance will set a Tariff Card applicable to Toll Roads and the same will be updated quarterly to account for inflation and reviewed periodically. Toll tariffs for PPP road projects, bridges causeways, tunnels and other major crossings to be set on a project-by-project basis.

vi) ***Tolling Urban Roads***: urban roads may be tolled subject to additional considerations including physical constraints and impact of toll charging points on congestion and traffic flows.

Key Implications

⇒ Road tolling will help the government to close the roads infrastructure financing gap resulting in better-maintained roads, improved amenities for travellers, increased safety to motorists, and reduced accidents and fatalities.

⇒ Road tolling will increase private sector participation in the management of roads through selection of private toll operators.

⇒ On the contrary, road tolling may however increase the cost of transport for consumers especially given that tolled roads will not necessarily be required to have toll-free alternative routes. Increased cost of transport will spike the cost of doing business, translating to higher commodity prices when these costs are passed on to consumers.

2) Implementation of the MRTS and BRT in Nairobi

In the Budget Policy Statement released by the government in early February, the government has outlined measures to streamline transport and reduce traffic congestion within the Nairobi Metropolitan Area by implementing the Mass Rapid Transit System (MRTS). The MRTS is expected to elevate Nairobi to a regional hub through an efficient transport sector that integrates public transport with land use planning, improving access to residential estates, and decentralizing settlements which will in turn reduce cost of housing in the Nairobi Metropolitan Area. The Government is also looking to fast-track the implementation of the Bus Rapid Transit (BRT) Transit Lines 2, 3 and 5.

Furthermore, under this Project, the Government will acquire Electric Vehicle buses to further reduce Green House Gases effects emanating from the transport sector.

Key Implications

When fully implemented, the MRTS and BRT corridors will enhance traffic efficiency in the Nairobi Region, mitigate traffic congestion, reduce pollution and contribute to well-managed and quality public transport networks in the Metropolitan.

3) *KETRACO Transmission PPPs*

Three months since the Kenya Electricity Transmission Company (KETRACO) terminated the KES 96 billion contract with the Adani Group for the construction of two transmission lines and a power substation, KETRACO is on the precipice of concluding negotiations with Africa 50 and India's national electricity transmission firm, Powergrid for construction of two transmission lines. The Africa 50-PowerGrid PPP deal will involve the construction of the 73km 220Kv Kisumu-Kakamega-Musage line and 179km 400Kv Lessos-Loosuk line at a cost of KES 45.19 billion.

KETRACO has so far agreed with Africa 50 and Powergrid on four key components including the total cost of the project, cost of debt and the project's annual revenue requirements. The parties are still negotiating on the debt-equity ratio for the project and the return on equity for the investors.

Key Implications

⇒ KETRACO's rush to finalize another PPP deal for transmission lines just three months after the collapse of the Adani deal, highlights the urgent need for private sector involvement in power transmission development to bridge the infrastructure gap and ease fiscal pressures.

⇒ The finalization of this deal is likely to spur further private sector investment in the electricity transmission sub-sector, facilitated by the 2024 Energy (Electricity Market, Bulk Supply and Open Access) Regulations, which have opened up Kenya's electricity market allowing private sector investors to participate in electricity transmission and distribution.

⇒ Furthermore, despite challenges experienced last year resulting in the cancellation of the Adani deals, it is evident that PPPs still remain a viable solution to mitigate the Kenyan government's financial constraints.

4) *Treasury to Review PPP Plan*

The National Treasury is looking to review the PPP Programme in Kenya including the suitability of processes used in identifying and procuring Public Private Partnership (PPP) Projects. This comes in the wake of the cancellation of two high profile deals involving India's Adani group in November 2024 which triggered widespread public criticism.

The Treasury recently launched the consultancy services for the review of the PPP Programme which will amongst others assess the extent to which project development process is fit for purpose for PPP projects prepared and procured through the procurement methods provided for in the PPP Act of 2021, through an evaluation of a sample of those projects

Notably, a significant number of PPP Projects in the country are initiated through unsolicited proposals, eliminating the need for competitive bidding. This has attracted warning from international partners including the World Bank which has cautioned against unsolicited deals, warning that they could trigger public protests and erode investor confidence.

Key Implications

The review of the PPP framework to address amongst others the suitability of procurement processes for PPPs is a welcome move especially in light of the cancellation of key PPP deals in the recent past.

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