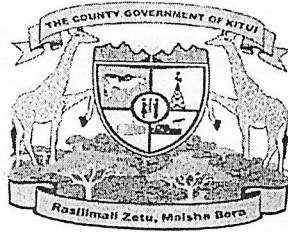


REPUBLIC OF KENYA



COUNTY GOVERNMENT OF KITUI

THE COUNTY ASSEMBLY

.....

THIRD ASSEMBLY- THIRD SESSION

.....

COUNTY PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE

REPORT

ON THE EXAMINATION OF THE REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS FOR THE KITUI WATER AND SANITATION COMPANY LIMITED (KITWASCO) AND KIAMBERE-MWINGI WATER AND SANITATION COMPANY LIMITED (KIMWASCO) FOR THE FINANCIAL YEAR ENDED 30<sup>TH</sup> JUNE 2019.

.....

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## List of Acronyms/Abbreviations

BOD	Board of Directors
MD	Managing Director
ERP	Enterprise Resource Planning
IPSAS	International Public Sector Accounting Standards
KIMWASCO	Kiambere - Mwingi Water and Sanitation Company
KITWASCO	Kitui Water and Sanitation Company
MWI	Ministry of Water and Irrigation
WARMA	Water Resources Management Authority
WASRB	Water Services Regulatory Board.
WSPs	Water Service Providers
WAB	Water Appeals Board
WSTF	Water Services Trust Fund
TAWSB	Tanathi Water Services Board (TAWSB)
UFW	Unaccounted For Water
IGRTC	Inter-GovernmentalRTC
NRW	Non-Revenue Water
TWWDA	Tanathi Water Works Development Agency
CPIAC	County Public Investments and Accounts Committee
PAA	Public Audit Act
EACC	Ethics and Anti-Corruption Commission
PPADA	Public Procurement Assets and Disposal Act
FY	Financial Year
A G	Auditor-General
PSASB	Public Sector Accounting Standards Board
IFRS	International Financial Reporting Standards
PFMA	Public Finance Management Act
CIS	Customer Information System
NWCPC	National Water Conservation and Pipeline Corporation
CECM	County Executive Committee Member
CO	Chief Officer
DPP	Directorate of Public Prosecution
DCI	Directorate of Criminal Investigation
PCK	Postal Corporation of Kenya

## GLOSSARY OF TERMS

**Non-Revenue Water**-Water that has been produced and is “lost” before it reaches the customer.

**Unaccounted-For-Water**- The difference between the quantities of water supplied to the network and the metered quantity of water used by the customers. This definition relates to Non-Revenue Water.

**Revenue Water**- Refers to the volumes of water that are billed during the reference period, regardless of whether those bills are paid or not by the customers

**Access To Water**- The proximity to a water source by the community. “A household is considered to have access to improved water supply if it has sufficient amount of water for family use, at an affordable price, available to household members without being subject to extreme effort, especially to women and children.”

**Water Scarcity**- Lack of sufficient available water resources to meet the demands of water usage within a region.

**Improved Sanitation Facilities**- Defined as including connection to a sewer or septic tank system, pour-flush latrine, simple (or double) pit or ventilated, improved pit latrine, again allowing for acceptable local technologies.

**Sanitation**- Defined as an access to, and use of, excreta and wastewater facilities and services that ensure privacy and dignity, ensuring a clean and healthy environment.

**Collection Efficiency**- The percentage of the total amount billed that is collected, i.e. amount collected divided by amount billed.

**Consumption** -The volume of water that can be accounted for by legitimate use, whether metered or not.

**Water Losses**-The difference between system input volume and authorized consumption.

**Waste-Water**- Arises from wasteful use by the consumer or from defective fittings. It occurs as customer side leakage and as such is not part of UFW/NRW.

**Billed Metered Consumption**- Is an authorized consumption that is directly measured. It is the quantity of water that is metered and generates revenues through the periodic billing of the consumer.

**Billed Un-metered Consumption**-Is an authorized consumption that is based on an estimate or flat fee. This billing method is used for customers that do not have meters. Estimated use is often based on historical or average use of data. The fee may vary for different types of customers such as residential or industrial.

**Unbilled Authorized Consumption**-Consists of known uses, condoned by the utility, for which no revenue is received. Unbilled authorized consumption can be either metered or un-metered.

**Unbilled Metered Consumption**-Is that quantity of water that does not generate revenues but which is accounted and not lost from the system. Water used in the treatment process or water provided without charges are examples of these quantities.

## Chairperson's Foreword

**Honourable Speaker**, on behalf of the County Public Investments and Accounts Committee (CPIAC), and pursuant to Standing Order 179 (6), it is my pleasant duty and honour to present to the House the report of the Committee on the audited financial statements of Kitui Water and Sanitation Company Limited (KITWASCO) and Kiambere-Mwingi Water and Sanitation Company Limited (KIMWASCO) for the Financial Year 2018/2019.

The Committee, in an endeavor to meet the tight constitutional timelines, has had to be innovative in its approach in dealing with the backlog of unexamined audited accounts occasioned by a time lag between when the reports are presented to the House by the office of the Auditor-General. This cyclical challenge stretches the committee's limited time, delays examination of the reports and undermines effective interrogation of witnesses

Inadequate performance by the Accounting Officers is another challenge which the Committee encountered, from time to time. On several occasions, the responses were inadequate, unsatisfactory, and not accompanied by supporting documents, thus delaying and making the work of the Committee difficult.

**Honourable Speaker**, legislative organs exercise oversight over governments operations to ensure accountability and prudence in the exercise of public duty. Nonetheless, oversight function is often misconstrued as adversarial and fault-finding exercise intended to embarrass governments in exercise of delegated power.

Those who hold this line of thinking should be reminded that the relationship between parliamentary exercise of oversight and Executive (government) compliance with principles of leadership and governance is obligated by the Constitution and it is an essential part of combating corruption, checking executive tendency towards dictatorship and promoting democratic governance.

The County Assembly exercises oversight over County revenue and its expenditure pursuant to Article 185 (3) of the Constitution through CPIAC which, in turn, derives its mandate from Standing Order No. 185. This report is a culmination of a long journey walked by the committee in the scrutiny of value for money, efficiency and effectiveness of public spending and in holding the County Government and its officers to account for the delivery of public services.

**Honourable Speaker,** the Committee is ever cognizant of the enormous responsibility bestowed upon it by the Constitution and the House Standing Orders. This responsibility, inevitably, comes with high public expectations.

The Committee held a total of four (4) sittings during which it received both written and oral evidence from Accounting Officers on audit queries raised by the Auditor-General.

**Honourable Speaker,** the Office of the Auditor-General (OAG) continues to meticulously highlight cases of questionable expenditure of public funds in its annual reports. There is, however, a real risk of reducing this serious contribution by the OAG into a mere ritual if no action is taken on those findings.

Where satisfied of a prima facie case that the Management did not comply with Financial Regulations regarding utilization of public funds, the Committee has made referrals of the person(s) culpable for financial malfeasance to the relevant investigative agencies for further investigation and appropriate legal action.

In some cases, the Committee has invoked the provisions of Article 226(5) of the Constitution and recommended that the concerned officers make good the losses that have arisen under their watch, upon conclusive investigations by the relevant investigative agencies. The County Assembly must breathe life to this progressive constitutional provision that has, apparently, been in limbo since the promulgation of the Constitution in 2010.

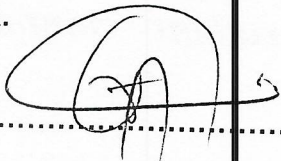


**Honourable Speaker**, in conclusion, I wish to thank the Committee Members for the non-partisan spirit demonstrated during the course of the hearings. Special thanks go to the office of the Speaker and that of the Clerk of the County Assembly for facilitating the Committee in discharging its mandate.

I would also like to acknowledge the support of the CECM, Water and Irrigation, the two Managing Directors and the Core staff of the two companies who took their time to attend the hearings. Their attendance and contributions guided the Committee's deliberations during the course of reviewing the issues raised by the Auditor General.

Profound thanks are equally due to the representatives from Audit Service for their invaluable inputs during the hearings, especially in explaining the queries raised in the reports and verification of documents submitted during the investigations. This acknowledgement would be incomplete without mentioning the CPIAC Secretariat, who worked tirelessly, formulating the Committee's findings into this Report.

**Honourable Speaker**, on behalf of the Committee, I now wish to table the report and urge the House to adopt it and the recommendations therein.



.....  
**HON. GABRIEL MUTUNGA MUNYAO, MCA**  
**CHAIRPERSON, COUNTY PUBLIC INVESTMENTS AND ACCOUNTS**  
**COMMITTEE.**

## 1.0 INTRODUCTION

### 1.1 Establishment of the Committee

The County Public Investments and Accounts Committee was established on 31<sup>st</sup> October, 2022 pursuant to Standing Order 185.

### 1.2 Committee mandate

The Committee is established pursuant to the provisions of Standing Order No. 185 with the following terms of reference: -

- *To examine the reports and financial statements of the public investments;*
- *To examine the reports, if any, of the Auditor - General on the public investments; and*
- *To examine, in the context of the autonomy and efficiency of the County public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices*

The primary mandate of CPIAC is therefore to oversight the expenditure of public funds by County Ministries, Departments and agencies, to ensure value for money and adherence to government financial regulations and procedures.

### 1.3 Guiding principles

In the execution of its mandate afore-stated, CPIAC is guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions, practices and usages. These principles include:

#### **Constitutional Principles on Public Finance**

Article 201 enacts fundamental principles that “...shall guide all aspects of public finance in the Republic...”

The principles are:

- (a) There shall be openness and accountability, including public participation in financial matters;
- (b) The public finance system shall promote an equitable society, and in particular: -
  - i. The burden of taxation shall be shared fairly;
  - ii. Revenue raised nationally shall be shared equitably among National and County Governments; and
  - iii. Expenditure shall promote the equitable development of the country, including by making special provision for marginalized groups and areas;
- (c) The burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations;
- (d) Public money shall be used in a prudent and responsible way; and;
- (e) Financial management shall be responsible, and fiscal reporting shall be clear.

Honourable Speaker, CPIAC places a premium on these principles, among others, and has been guided by them in the entire process that has culminated in this report.

### **Direct Personal Liability**

Article 226(5) of the Constitution provides that: -

*"If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not".*

CPIAC considers this Constitutional provision as the basis for holding each individual Accounting Officer and other Public Officers directly and personally liable for any loss of public funds under their watch.

The Committee has and will continue to invoke this provision in its recommendations to hold those responsible personally accountable. This is also intended to serve as a deterrent measure.

### **Obligations of Accounting Officers**

Section 149 (1) of the Public Finance Management Act, 2012 provides, inter alia, that:

***“An accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized and effective, efficient, economical and transparent.”***

This provision obligates all accounting officers to appear before the County Assembly’s CPIAC to respond to audit queries in their respective Ministries/Departments.

And section 156 (1) of the same PFM Act stipulates that: ***“If an Accounting Officer reasonably believes that a public officer employed by a County Government entity has engaged in improper conduct in relation to the resources of the entity, the accounting officer shall: -***

- a) Take appropriate measures to discipline the public officer in accordance with regulations; or
- b) Refer the matter to be dealt in terms of statutory and other conditions of employment applicable to that public officer.”

CPIAC strongly holds the view that these provisions of the law were intended to be fully applied to give effect to the high principles in Article 201 of the Constitution stated herein above, to ensure prudent and responsible use of public funds.

The Committee has, accordingly, applied these provisions to recommend diverse disciplinary actions, investigations and surcharging of various persons found to bear responsibility for breaches of the law and/or responsible for the loss or wastage of public funds.

#### 1.4 Committee membership

As currently constituted, the Committee consists of the following Members:

- |                                   |                  |
|-----------------------------------|------------------|
| 1) Hon. Gabriel Mutunga Munyao-   | Chairperson      |
| 2) Hon. David Masaku Munyau-      | Vice Chairperson |
| 3) Hon. Godfrey Muthengi Ndagara- | Member           |
| 4) Hon. Jeremiah Musee Mutua-     | Member           |
| 5) Hon. Paul Maluki-              | Member           |

#### 1.5 Technical staff

Honourable Speaker, the following staff of the Audit Service provided technical assistance to the Committee during the course of the hearings:

- |                        |                          |
|------------------------|--------------------------|
| 1) Evans S. Ondari     | -Manager (Audit Service) |
| 2) Catherine K. Kaburu | -Manager (Audit Service) |

#### 1.6 Committee Secretariat

- |                     |                        |
|---------------------|------------------------|
| 1) Jacob K. Kimanzi | -First Clerk Assistant |
| 2) Joseph K. Kimote | -First Clerk Assistant |
| 3) Douglas K. Mutua | - Hansard Reporter     |

## 2.0 GENERAL COMMENTS

### 2.1 Tabling of the reports

The reports of the Auditor-General on the audited financial statements of KIMWASCO and KITWASCO were laid before the House on 4<sup>th</sup> October 2023 and thereafter referred to the County Public Investments and Accounts Committee (CPIAC) for consideration, report writing and submission of its findings to plenary.

### 2.2 Audit opinions

While interrogating the reports, the committee noted that the Auditor-General expressed various audit opinions on the audited accounts. **Honourable Speaker**, a few words on the types of audit opinions and the differences between them may be helpful to the non-technical reader.

- **An unqualified opinion**, the most desirable, arises where the financial statements provide a true and fair view of financial position and performance.
- **Qualified opinion**, is an auditor's declaration that there is an area of uncertainty in the financial statements.
- **An adverse opinion**, is issued where the auditor has sufficient and appropriate audit evidence of a material and pervasive nature that the financial statements do not present a true and fair view.
- **A disclaimer of opinion**, the least desired, is considered more serious than an adverse opinion and arises where the auditor does not have sufficient and appropriate audit evidence to form an opinion, one way or the other, to make a judgment on the financial statements.

### 2.3 Devolution of water services in Kenya

Articles 6, 174, 175, and 176 of the Constitution of Kenya (2010) created a two-tier system of governance comprised of one National Government and 47 County Governments. The responsibility to provide water and sanitation services in Kenya is now devolved and a function of County Governments.

In addition, article 43(1)(d) of the Constitution of Kenya entrenches water and sanitation as a constitutional right by recognizing the right to “reasonable standards of sanitation” and “clean and safe water in adequate quantities.” this obligation, as per article 21, should be delivered by the County Governments and requires them to take steps to ensure they progressively realize this right.

Kitui County Government owns two Water Service Providers (WSPs), Kitui Water and Sanitation Company (KITWASCO) and Kiambere-Mwingi Water and Sanitation Company (KIMWASCO). These WSPs are licensed and regulated by the Water Services Regulatory Board (WASREB) to provide water services in the county, in accordance with a set of regulations and quality standards established by WASREB.

However, the two WSPs (KITWASCO and KIMWASCO) currently serve roughly one-third (390,000 people) of the total county population (1,221,001 people) due to various constraints that include limited infrastructure coverage, inefficient operations, inadequate water resources, urbanization, and unprecedented demand or population growth. The remainder of the county population is partly served by rural sources or schemes that play a critical role in closing the water access gap.

## 3.0 GENERAL OBSERVATIONS AND RECOMMENDATIONS

### 3.1 Introduction

The Committee wishes to draw the attention of the House to the following general observations arising from the Committee proceedings, evidence taking, subsequent deliberations and findings that relate to the fiscal year under review: -

#### 3.1.1 Poor Water Supply

Both companies (KITWASCO and KIMWASCO) have failed to achieve their stated mission of providing quality, reliable and adequate potable water and basic sanitation services through sound planning and effective utilization of available resources.

This underachievement has resulted from weak management structures, processes and systems which subject customers to poor services quantified by inconsistent supply of water, perpetual rationing and low coverage of users among other shortcomings.

Quite often, water users are treated to prolonged periods of interruption of supply occasioned by disconnection of electricity at the water pumping stations due to unpaid bills. The prolonged outage paralyzes operation of the water pumping machines which interferes with the pumping schedule and steady flow of water to consumers.

#### *Committee recommendation*

*It is therefore imperative for the water companies to make strenuous efforts to improve availability, accessibility and sustainability of water supplies to consumers by undertaking rehabilitation of the dilapidated water and sanitation infrastructure and establishment of a good monitoring system to quickly identify sections needing repair for timely intervention.*

*The County Government/ TANATHI water services board (TAWSB), which is the asset developer and holder on behalf of KITWASCO*



and KIMWASCO should collaborate with the other undertakers in ensuring these practical recommendations are implemented.

### 3.1.2 Non-Revenue Water / Weak Financial Performance

Both Companies experienced high levels of Non-Revenue Water (NRW) also known as Unaccounted for Water (UFW) in the FY 2018/2019. The Auditor-General sounded an alarm that "the significant level of UFW if not addressed could negatively impact on the companies' profitability and their long-term sustainability".

#### *Committee recommendations*

*The County Government /TANATHI Water Services Board (TAWSB) should ensure that the two underperforming utilities are restructured to improve efficiency and to address their future commercial viability and the required financial and Management resources.*

*The Management should focus on;*

- Rehabilitation of the dilapidated water and sanitation infrastructure and establishment of a good monitoring system to quickly identify sections needing repair for timely intervention.*
- Ensuring timely response to pipe bursts, leakages and sewer blockages, that should be done within the shortest time possible after being reported.*
- Stepping up surveillance along the pipeline networks to arrest and prosecute people involved in illegal connections and vandalism of the supply systems. This should be supplemented with door-to-door impromptu checks for illegal consumption.*

### 3.1.3 Poor Records Management

The Committee condemned chronic weaknesses in record keeping, terming it as an impediment to accountability. Lack of supporting

documents for transactions raised significant audit reservations during the year under review.

The Committee believes that in some instances, the loss and or unavailability of supporting documents was not genuine but intended to cover up for financial misconduct. The Committee emphasized the importance of proper record keeping as institutions' memory, essential for retrieval of information, evidence on official transactions, financial reporting, proper accountability, and prevention of dishonesty,

*The Committee recommends that both utilities put in place measures so that documents are properly filed and produced upon request. This should include developing registries staffed with well trained and experienced clerks for proper filing and safekeeping of documents.*

#### **3.1.4 Management override of internal controls**

The Committee noted cases where management override of controls occurred specifically with regard to custody of financial records, procurement procedures, budget implementation, and management of revenue. The committee reckons that management override of controls, is a subset of fraud where officials deliberately circumvent internal controls in place mostly for personal benefit.

The committee attributed the high number of irregularities and incidence of malfeasance to failure to comply with a well-structured internal control system. The Committee believes these deficiencies were as a result of weak internal audit units, which failed to raise the red flag over malpractices.

#### ***Committee recommendation***

*The Committee recommends that the Management should ensure that internal control processes are made to work effectively. This should be done by putting in place viable internal audit units to assist in enforcing objective appraisal of systems, effectiveness of*

*risk management and operations, reliability of financial and management reporting and compliance with laws and regulations.*

### 3.1.5 Staff issues

Low levels of accrual accounting and financial reporting competence among finance staff: Staff are generally not skilled to prepare accrual-based financial statements, and there is not enough capacity to show for the training carried out over several years in preparation for International public Sector Accounting Standards (IPSAS).

#### *Committee recommendation*

*IPSAS and accrual accounting training that is backed by testing and certification is required. Finance staff should be required to undertake fresh training and take tests for IPSAS certification.*

### 3.1.6 Inadequate funding for the audit service

Severe funding constraints continue to be a major impediment to achieving the statutory and constitutional mandates of the office of the auditor-general and the office is not able to self-fund significant amounts of fieldwork. As was the case in previous years, the national budget, the mandate of the office and public expectations have been increasing. However, the annual audit budget remains inadequate.

#### *Committee recommendation*

*There is need for the Auditor-General's office to be adequately resourced in terms of funds and personnel to improve its performance and timely submission of audit reports to the National Assembly and County Assemblies as required under Article 229 (4) of the constitution*

### 3.1.7 Delays in availing documents for audit verification

The Committee expresses concern that the companies continue to entertain inordinate delays in availing documents for audit

verification. The Committee reckons that Accounting Officers who fail to avail documents for inspection at the time of audit without good cause must be held responsible for the payment of the monetary value attached to such documents.

*Further, the Committee recommends that such trends will not be tolerated or taken lightly, and that the Committee may proceed to prepare its report without the evidence of the Accounting Officers who will subsequently be named.*

## 4.0) EXAMINATION OF THE MAIN AUDIT REPORTS

### 4.1 THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS FOR THE KITUI WATER AND SANITATION COMPANY (KITWASCO) FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2019.

The CECM for Water and Irrigation Peter C. Nkunda, appeared before the Committee on 12<sup>th</sup> April, 2024 to respond (Under oath) to queries raised in the aforementioned report accompanied by the following officials:

- |                    |                                     |
|--------------------|-------------------------------------|
| 1) June Munyao     | -Ag. Managing Director (Under oath) |
| 2) Nathan K. Vungo | -Chief Officer, Water               |
| 3) Kennedy Mutati  | -Deputy Director Water              |
| 4) John Mwangangi  | -Accountant                         |
| 5) Clement Muinde  | -Manager, Internal Audit            |
| 6) Victor Muteti   | -Commercial Manager                 |
| 7) Francis Mutunga | -Supply Chain Management Officer    |

### BASIS FOR QUALIFIED OPINION

#### 4.1.1: Unsupported Prior Year Adjustment

As disclosed in Note 23(b) to the financial statements, the statement of financial position reflects prior year adjustment of Kshs.61,978,234. However, the adjustment has not been supported with appropriate documentation and journal vouchers.

In the circumstances, the accuracy and validity of the fair statement of the prior adjustment of Kshs.61,978,234 as at 30<sup>th</sup> June, 2019 could not be confirmed.

#### Management Response

During the period under review viz. FY 2018/2019, the following prior adjustments amounting to Kshs 61,978,234 were made:

- Adjustment of creditors balance Kshs 1,011,006
- Reinstatement of debtor's figure Kshs 57,710,870
- Reversal of cancelled cheques in the cashbook Kshs 3,256,588
- Unrecorded bank charges Kshs 231

Prior to 1<sup>st</sup> July 2018, the Company was preparing financial reports using Microsoft Excel. During the financial year under review FY 2018/2019 the Company implemented an accounting software i.e. Enterprise Resource Planning (ERP-Next) and also migrated to a new billing software (Majisoft). Omissions were made during the shift from the manual system to ERP-Next accounting system.

The amount of Kshs 1,011,066 done as an adjustment to creditor balances which were omitted in the previous year during the shift from manual to ERP-Next accounting system. (See *Annex 1.1.a* - that shows how the figure appears in the Company's debtor's ledger for FY 2018/2019).

The Kshs 57,710,870 adjusted to increase debtors to recognize unpaid customer bills that were not captured in the previous year's FY 2017/2018 books during a system shift. (See *Annex 1.1.a* - that shows how the figure appears in the Company's debtor's ledger for FY 2018/2019).

An amount of Kshs 3,256,588 had been debited to the individual creditors ledgers in the manual system. Since this amount had not cleared by the time the Company migrated to the ERP-Next software, the amount was reversed to reflect the actual creditor balances in the Enterprise Resource Planning (ERP-Next) System. (See *Annex 1.2.a* - that shows how the figure appears in the Company's creditor's ledger for FY 2018/2019).

The bank charges of Kshs 231 (See *Annex 1.3.a* - that shows how the figure appears in the Company's bank charges ledger for FY 2018/2019) for account number 1205316566 held at the Kenya Commercial Bank had not been expensed hence charged in the year under review (FY 2018/2019).

Further, the CECM for Water and Irrigation informed the Committee that the contract of the former Managing director was terminated and Ag. Managing director was appointed in an effort to rectify the management of KITWASCO.

In addition, the C.O for Water informed the Committee that the adjustments which had been done couldn't amount to loss of funds.

### *Committee observations*

*The Committee, upon interrogation of evidence submitted by the management:*

- i. Concurred with the adjustments made but stated that the company ought to have made a proper disclosure on or before the time of audit.*
- ii. Noted that, the Client conceded that the correct balance was not reflected.*

*The committee further attributes the errors of omission and commission in the statements to either;*

- iii. Carelessness, lack of information, misinterpretation of data, or sheer incompetence on the part of accounting staff.*
- iv. Deliberate falsification, alteration, or manipulation of material financial records and supporting documents to cover up for malpractices.*

### *Committee recommendations.*

*The matter stands resolved however the management should always ensure that the financial statements and other information included in the annual report are checked and reviewed for completeness and accuracy prior to audit. All amendments to financial statements and information should be done before annual audit commences.*

*Further the management should take administrative action against the officers who failed to adhere to the timelines on submission of documents as required by section 167 of PFM Act and Section 47(1) & (2) Public Audit Act, 2015.*

#### **4.1.2: Unsupported Provision for Bad Debts**

As disclosed in Note 18 to the financial statements, the statement of financial position further reflects trade and other receivables balance of Kshs.185,644,971; (2018 - Kshs 116,212,030) which includes trade receivables balance of Kshs 154,748,054; (2018 - Kshs 81,000,961) an increase of Kshs 73,747,093 or 91% from the previous year balance. However, the provision for bad and doubtful debts amounting to Kshs 18,172,958 could not be ascertained and there were no

supporting documents to confirm the basis and the adequacy of the provision for bad debts.

In the circumstance it has not been possible to ascertain the accuracy of trade and other receivables balance of Kshs 185,644,971 as at 30<sup>th</sup> June 2019.

### **Management Response**

During the year under review FY 2018/2019, there was a huge increase in trade receivables/debtors from Kshs 81,000,961 in FY 2017/2018 to 154,748,054 in FY 2018/2019. This increase was attributed to Prior Year Adjustment to trade receivables/debtors amounting to Kshs 57,710,870 and uncollected trade receivables for the year (amounting to Kshs 16,036,223).

The provision for bad and doubtful debts is 15% of total inactive trade receivables at the close of the financial year which stood at Kshs 121,153,053.33. (See *Annex 2.1.a* - that shows the Board's approval for the provision for bad and doubtful debts).

Further, the C.O for water informed the Committee that the company had appointed a debt collector in order to come up with a structured way of making sure that they follow-up on bad debts.

He also informed the Committee that KITWASCO as much as it is a company, it is supposed to be operating as a commercially vibrant and active institution. They were also cognizant to the fact that it is a government entity tasked with the mandate of providing a social good called water to the residents.

The C.O for Water further informed the Committee that the company was proposing on giving prominence to prepaid meters, so that the matter of bad debts could be reduced to a large extent.

Further, The Ag. Managing director also informed the Committee that they were in the process of forming complaints resolution Committee to address the issues of erroneous water bills and develop a framework for customers who have huge outstanding water bills on how to pay them.

The Ag. Managing director also, informed the Committee that, in the proposed new water tariffs, the company will no longer be charging zero consumption of water.



In her closing remarks, the Ag. Managing director assured the Committee that the company was looking forward to addressing the issue of unreliable water supply in the County.

### *Committee observations*

*From the submission and evidence adduced by the witnesses the committee observed that:*

- i. The Company (KITWASCO) stands to lose since the provision for bad and doubtful debts amounting to Kshs 18,172,958 will not be possible without credible supporting documents.*
- ii. Collection of revenue was characterized by laxity. This is exemplified by the outstanding debts dating back to previous years. It was also marked by defective and weak accountability systems.*
- iii. The company (KITWASCO) did not provide the schedule with the contact information for the debtors as requested by the committee, which was needed to verify the validity and accuracy of the aforementioned debts.*

*Further, the committee;*

- iv. Castigates the management for availing the supporting documents way out of the audit cycle stating that unavailability of supporting documents was a clear testimony of poor record keeping and weak internal controls by the management.*
- v. The committee understands that the officials involved in corruption, fear for the security of their jobs and are unlikely to want to keep records.*

### *Committee recommendations*

*The Committee recommend that;*

- i. The company should adopt a practical write off policy based on historical experience and restructure its revenue generating machinery to overturn the downward performance and ensure that all revenue due is collected.*

- ii. *The management must ensure that more monthly reviews of status of debtors is carried out (maintain up to date records of debtors) and any difficult cases of default should be reported to the appropriate authorities for necessary action including legal action.*
- iii. *Management should ensure that documentary evidence in support of the water debtors and approval by the board for the provision of 15% on bad debts is availed for audit inspection not later than 60 days after adoption of this report by the House.*
- iv. *Worried that the write offs might have been manipulated to benefit individuals, the Committee invites the OAG to conduct a forensic audit on the matter and also EACC/DCI to carry out further investigations with a view to having suspects prosecuted if corruption, economic crimes and abuse of office are confirmed and have the lost amount recovered.*

#### **4.1.3: Unreconciled Cash and Bank Balance**

As disclosed in Note 19 to the financial statements, the statement of financial position reflects bank and cash balance of Kshs.22,686,553 which includes an amount of Kshs 2,697,163 held at the Postal Corporation of Kenya which was not fully supported. The confirmation certificate from the Corporation reflected a balance of Kshs 1,142,070 resulting to an unreconciled difference of Kshs.1,555,093.

In the absence of the reconciliation, it has not been possible to ascertain the accuracy of the reported bank and cash balance of Kshs 22,686,553 as at 30<sup>th</sup> June, 2019.

#### **Management Response**

The company opened an account with PCK to facilitate customers to make payments of their water bills. PCK was required to transfer all the monies paid by customers to the company account at Kenya Commercial Bank Account No. 1113757604. During the year under review FY 2018/2019 the PCK in their capacity as a collection agent for the company had collected Kshs 2,697,163 (See Annex 3.1 - KITWASCO reconciliation statement for PCK collection account) but

only acknowledged Kshs 1,142,070 thus leaving a balance of Kshs 1,555,093 (Kshs 2,697,163 minus Kshs 1,142,070).

During the year under review FY 2018/2019, the Company circularized to its collection agents/banks (including Postal Corporation of Kenya) for confirmation of balances. The confirmation balance certificate received from PCK was Kshs 1,142,070 and differed with the amount in the Company records which was Kshs 2,697,163.

Upon receipt of the Certificate of Balance from PCK for the year ending 30<sup>th</sup> June 2019, the management wrote a contest letter which was not responded to and the matter stands unresolved to date. (See *Annex 3.2 - showing contest letter dated 9<sup>th</sup> December 2019 to Postal Corporation of Kenya (PCK)*).

### **Current Status**

This variance has not been resolved to date despite several communications to PCK. Efforts to recover the money through a debt collector have not been successful. The Company has forwarded the matter to the Company lawyer for legal action to recover the outstanding amount. See *Annex 3.3 PCK certificate of balance acknowledging a balance of Kshs 3,588,622.00*.

Further, the commercial manager informed the Committee that they had a contract with the Postal Corporation of Kenya (PCK) to collect water bills on behalf of the KITWASCO after it was approved by the Board.

The CECM for Water and Irrigation also informed the Committee that they were proposing on suing the Postal Corporation of Kenya for failure to remit 2,697,163 to KITWASCO.

### **Committee observations**

#### **The Committee;**

- i. Strongly condemns the practice of late submission of documents to auditors, stating that it undermines the credibility and authenticity of such documents. The delay, the committee noted, provides an opportunity for manipulation*

*of documents, encourages "creative" accounting practices in the public sector and delays the finalization of the audit reports at the expense of the tax payers.*

- ii. Faulted the management for non-performance of bank reconciliation terming it dereliction of duty. In view of this lapse, the committee believed that the management lacked control over the post office account.*

*Committee recommendations.*

*the committee recommends that;*

- i. The management should ensure regular bank reconciliations are performed by 10<sup>th</sup> day of each month.*
- ii. The Committee invokes the powers of EACC/DCI in carrying out conclusive investigation to this matter and further recommends prosecution of individuals found culpable of mishandling public funds.*

#### **4.1.4: Loss of Revenue**

The statement of financial performance reflects a balance of Kshs 114,222,198 in respect to revenue. During the year under review, the Internal Audit Department undertook a review of the water billing and receipting system. The review revealed fraudulent loss of revenues amounting to Kshs 6,267,471. Although administrative action has been taken against concerned employees by way of employment contracts termination, there is no evidence of legal action having been taken to recover the lost revenue and deter recurrence.

In the circumstance, the completeness and accuracy of the revenue balance of Kshs 114,222,198 cannot be confirmed.

#### **Management Response**

During the year under review FY 2018/2019, a total of Kshs 6,267,471 fictitious customer receipts were irregularly captured into the billing software. The officers involved were summarily dismissed from service. The irregularly posted receipts have since been corrected in the system to reinstate the affected customer balances back to their original status to avoid the loss of the Kshs 6,267,471.

The management through Kitui Director of Criminal Investigations (DCI) Occurrence Book number (OB No) 45/04/11/2019 reported the matter to the Kitui Central Sub-County DCI for further investigations.

The two dismissed officers went ahead and sued KITWASCO for alleged wrongful dismissal through CAUSE NO CMELRC 5/2021 at Kitui Law Courts and CAUSE NO 311 OF 2022 at Employment & Labour Relations Court at Nairobi. The Company prepared and filed defence through B M Musau and Advocates and Musya Noel and Company Advocates. The matter is still pending in court.

### **Current Status**

In order to deter recurrence of the system-based manipulation, the Company has since changed the billing software (Promics) to Majisoft Billing Software which is more reliable as recommended by Water Services and Regulatory Board (WASREB).

To eliminate chances of malpractices and system manipulation the Company has instituted system controls which include:

- Clear segregation of duties i.e. checks and balances,
- Control of system rights allocation,
- Audit trail tracking,
- Daily reconciliation of customer receipts.

Further, payments via M-Pesa are posted to customer accounts real time when the customer pays hence eliminating the manual interface in posting.

In addition, the Internal Audit Manager for KITWASCO informed the Committee that they were in the process of recovering the monies which were wrongly posted.

The CECM, Water and Irrigation also informed the Committee that they had made a resolution that whoever will be involved in any malpractice activities going forward will be suspended immediately awaiting conclusion of the investigation.

The Internal Audit Manager also informed the Committee that out of the 6.2M, they had recovered 2.4M and therefore they had an

outstanding balance of 3.8 which was proposed to be included in the 15% on provision of bad debts.

He further, informed the Committee that the system being used for billing and posting of the receipts has an audit trail which is able to show who posted what, at what time including the minute it was posted and that's how the involved staff were identified.

The Internal Audit Manager confirmed that some of the customers acknowledged that there were alterations of billing system and they accepted to pay and so far, the company had collected monies amounting to 2.4M.

The Ag. Managing director confirmed that she was in receipt of a letter from DPP, citing that the case was dismissed because the office of DCI didn't provide sufficient evidence. However, she informed the Committee that the company had wrote to the office of DPP through, their lawyer to that effect.

#### ***Committee observations.***

##### ***The Committee;***

- i. Acknowledges the explanation by the management that there is an ongoing case for alleged wrongful dismissal and its outcome remains unknown. Further the Committee noted that DCI did not do thorough investigation on the matter. Since key witness like the Manager, Internal Audit of the company wasn't questioned.***
- ii. Notes with a lot of concern that the Company was yet to recover the kshs. 3.8 million.***

##### ***Committee recommendations***

##### ***The committee recommends that;***

- i. The former Managing Director should be held personally responsible for the loss and abetting pilferage of public resources under his watch to the tune of kshs. 3.8 million.***
- ii. The management, through the company lawyer, should seek additional evidence from the company's internal audit Manager to enhance the effectiveness of the litigation.***

- iii. *The management should create and maintain a culture of honesty and high ethical standards, and establish appropriate controls to prevent, deter and detect fraud.*
- iv. *The management should, going forward, be proactive in addressing staff disciplinary issues to avoid lengthy court proceedings and potential financial losses through legal fees and penalties.*

### **Basis for Conclusion**

#### **4.1.5: Non-Compliance with Law on Ethnic Composition**

During the year under review FY 2018/2019. The Company had a total of One hundred and twenty-six (126) employees out of whom One hundred and seventeen (117) employees representing 93% of the staff were from 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 employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community". In the circumstance, Management is in breach of the law.

### **Management Response**

During the year under review FY 2018/2019, the Auditor General raised concern on non-compliance with law on ethnic composition. The audit revealed that 93% of the staff were from the dominant ethnic community. The company admits this is the current situation.

The County Governments Act 2012 provides in Section 65(e) that "the need to ensure that at least thirty percentage (30%) of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County". Entry level is the lowest professional cadre which an entity recruits. See *Annex 1.1.b - extract of County Government Act 2012 Section 65(e)*

The employment opportunities at the entry level that may arise going forward will be filled competitively and affirmative action applied as provided for under Article 232 (h) and (i) to ensure progressive realization of the provision of County Government Act.2012 Section

65(e) and Section 7(1) and (2) of the National Cohesion and Integration Act, 2008.

### *Committee observations*

*The Committee observed that;*

- i. Ethnic inequality and imbalance in public institutions erode confidence and trust in the institution. Institutions that have flouted employment guidelines should address the anomaly.*
- ii. The Constitution does not allow discrimination in employment and public institutions have a duty to adhere to the provisions of the national cohesion and integration Act, the employment and County Governments Acts, on equal opportunities for all Kenyans.*
- iii. The County Governments Act 2012 provides in Section 65(e) that "the need to ensure that at least thirty percent (30%) of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County".*

### *Committee recommendations*

*The Committee recommends that;*

- i. The Management should ensure inclusivity and embed the Constitutional requirements during subsequent recruitments.*
- ii. The Management should also regularly perform ethnic audits to ascertain ethnic distribution in the Company.*

#### **4.1.6 Non-Revenue Water**

Available records indicate that the Company produced 3,529,141 cubic meters (m<sup>3</sup>) of water, of which only 1,327,288m<sup>3</sup> were billed to customers leaving out the balance of 2,201,853m<sup>3</sup> unbilled representing 62.4% of the production as Non-Revenue Water (NRW). The NRW exceeded the set threshold of 25% as approved by the Water Services Regulatory (WASREB) guidelines. No explanations have been provided for the high NRW and measures being put in place to control the water loss.



In the circumstances, the existence of effective control cannot be confirmed

### Management Response

The level of NRW for KITWASCO standing at 62.4% in the year under review FY 2018/2019 is admittedly very high and the following were the key contributory factors to the said scenario.

1. Old and dilapidated infrastructure i.e. non-functioning consumer water meters, old pipelines which cannot withstand high pressure, non-functional valves-slucice valves, air valve, non-return valves, ball valves etc.
2. Low revenue base resulting to financial constraints hence inability to facilitate NRW strategies/activities such as procurement of pressure reducing valves, replacement of non-functional meters, pipeline rehabilitation.
3. Unauthorized water use such as bypasses, meter tempering, illegal connections etc.
4. Water theft and vandalism by the public.

The following measures have been instituted to improve management and administration of the affairs of the Company in order to mitigate the high levels of Non-Revenue Water (NRW) to improve the profitability and sustainability of the Company.

1. Inculcating sound corporate governance and performance management.
2. Adoption of technological solutions i.e. digital meters (zonal and institutional), optimized billing system, mobile meter readers, Geographic Positioning System (GPS) etc.
3. Sealing of consumer meters and tee disconnection of inactive connections.
4. Infrastructure improvement i.e. replacement of dilapidated Unplasticized Polyvinyl Chloride (UPVC) and Galvanized Iron Pipes (GI) pipelines to High Density Polyethylene (HDPE) standard.
5. Effective enforcement against acts of water theft and vandalism.

6. Mobilization of relevant stakeholders to provide security for water installations and other infrastructure including the national government administration, national police and county government enforcement officers.
7. Community empowerment and sensitization for active participation on matters pertaining to water resources management including water infrastructure protection, responsible storage and utilization of water, prompt payment of water bills, patriotism, honesty, transparency and accountability.

### **Current Status**

Since the year under review FY 2018/2019, the Company's level of NRW has been on the decrease. The Water Services Regulatory Board (WASREB) impact report (FY 2020-2021) issue number 14 ranked the Company's NRW at 54%. The provisional results for FY 2021 - 2022 indicated a NRW of 52% (See *Annex 2.1.b - showing extract of WASREB IMPACT 14 and Provisional results for FY 2020-2021*). The NRW for FY 2022-2023 stood at 49%.

The average NRW for March 2024 stood at 47% which is 15% improvement compared to FY 2018/2019. The high NRW is expected to reduce further through the support of the County Government of Kitui and other development partner.

Further, the CECM, Water and Irrigation informed the Committee that they had proposed allocation of funds to help the company purchase digital water meters which are more effective in order to reduce the issue of non-revenue water.

He also submitted that they had proposed allocation of funds to the company to replace dilapidated water pipes.

### **Committee observations**

*The Committee noted that, during the financial year under review, non-revenue water was 62.4% above the ideal standard of 25% set by the regulator. Furthermore, the Committee observed that although the company demonstrated some improvement in reducing non-revenue water, the percentage remained significantly higher than the required standard.*

### *Committee recommendations*

*The Committee recommends that KITWASCO should implement efforts and measures to ensure that non-revenue water does not exceed the ideal standard by:*

- i. Rehabilitation of the dilapidated water and sanitation infrastructure and establishment of a good monitoring system to quickly identify sections needing repair for timely intervention.*
- ii. Stepping up surveillance along the pipeline network to arrest and prosecute people involved in illegal connections and vandalism of the supply systems. This should be supplemented with door-to-door impromptu checks for illegal consumptions.*
- iii. Enhance operational efficiency and financial performance, by considering adopting solar energy as an alternative power source. Transitioning to solar power will substantially lower long-term energy costs, boost profit margins, and provide a more reliable energy supply by minimizing power interruptions.*
- iv. Benchmarking with other water companies that have already excelled in water management matters for instance the Kibwezi-Makindu Water Company.*

## 4.2 THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS FOR THE KIAMBERE- MWINGI WATER AND SANITATION COMPANY (KIMWASCO) FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2019.

The CECM for Water and Irrigation Peter C. Nkunda, appeared before the Committee on 30<sup>th</sup> April, 2024 to respond (Under oath) to queries raised in the aforementioned report accompanied by the following officials;

- |                   |                                 |
|-------------------|---------------------------------|
| 1) Paul Kinuba    | -Managing Director (Under oath) |
| 2) Kennedy Mutati | -Deputy Director Water          |
| 3) Caleb M. James | -Accountant                     |
| 4) David N. Nzuki | -Technical Manager              |

### BASIS FOR QUALIFIED OPINION

#### 4.2.1. Material Uncertainty Related to Going Concern

The statement of profit or loss and other comprehensive income reflects loss after taxation of Kshs. 410,290; (2018 - Kshs. 14,324,126) raising the accumulated revenue reserves deficit to Kshs. 30,261,837; (2018 - Kshs. 28,457,030). Further, the current liabilities balance of Kshs. 40,860,681 exceeded the current assets balance of Kshs. 19,518,801 resulting to a negative working capital of Kshs. 21,341,880 as at 30 June, 2019. However, the financial statements have been prepared on a going concern basis. Management has not made disclosures or demonstrated actions taken to address the trend.

Consequently, the financial statements as prepared and presented are not IFRS compliant.

#### Management response:

Kiambere-Mwingi Water and Sanitation Company (KIMWASCO) operates on a subsidized water tariff (Annex 1.1 - Copy of subsidized water tariffs) where the County Government of Kitui pays for production electricity bills. Since the Company's inception in 2009 up to end of Financial Year ending 30<sup>th</sup> June 2019, there has been accumulation of unpaid electricity bills amounting to Kshs. 16.9 M. (Annex 1.2 - Electricity bills and subsidy schedule)

During the previous Financial Year 2017/2018, there was extended drought during the second quarter, which led to the main source of water, Kiambere dam water levels going very low. The company was therefore not pumping water in the month of October and November 2017. This affected the billings and revenue to great extent and hence the Company made deficit of Kshs. 14,324,126.

This incidence together with the accumulated subsidies not received led to the Company recording accumulated revenue reserves deficit of up to Kshs. 30,261,837 in the Financial Year 2018/2019.

However, the company's P & L status had improved from negative Kshs. 14,324,126.00 in financial year 2017/18 to negative Kshs. 410,290.00 in financial year 2018/19.

**(See Annex 1.1. - Copy of subsidized water tariffs).**

Further, the managing director informed the Committee that they wrote to the County government of Kitui, informing them the need to handover the liabilities and assets of KIMWASCO from Tanathi water works to the County government of Kitui. Since water services were devolved.

The CECM, Water and Irrigation undertook to engage both Tanathi Water Works Development Agency and KIMWASCO to ensure this audit query doesn't appear again in the next audit cycle.

Further, the CECM, Water and Irrigation informed the Committee that they were in the process of coming up with new water tariffs to enable the company raise more revenue so that it could be able to meet its operational expenses.

### ***Committee observations***

***The Committee noted that:***

- i. KIMWASCO was in a significant financial crisis, continuing to make losses and relying on the County Government subsidies for support.***
- ii. The process of identifying and validating assets and liabilities was a collaborative effort involving County Governments, National Government entities, and the Inter-Governmental Relations Technical Committee (IGRTC).***

- iii. *KIMWASCO had written to the C.E.C.M, County Ministry of Water & Irrigation on the issue of hand over of Assets and liabilities from Tanathi Water Works Development Agency through a letter Ref: KIMWASCO/ADM39/VOL.III (19) dated 21<sup>st</sup> October, 2022.*

#### *Committee recommendations*

##### *The Committee recommends that;*

- i. The Company expedites the handing and taking over process, prepare a comprehensive asset register and designate an officer to oversee the updating and custody of the register.*
- ii. KIMWASCO should explore alternative sources of power, such as solar energy, as a significant portion of its revenue is currently spent on electricity bills, which hinders the company's ability to sustain itself without the County Government subsidies.*
- iii. KIMWASCO should achieve financial sustainability and reduce reliance on County Government subsidies by streamlining operations, enhancing revenue streams, reducing non-revenue water, and optimizing cost management practices.*
- iv. KIMWASCO should address corruption in water sales and illegal connections by implementing strict anti-corruption measures, increasing transparency through regular audits, and establishing a robust monitoring and reporting system to enhance financial sustainability and operational integrity.*

#### **4.2.2 - Electricity bills and subsidy schedule.**

The negative working capital of Kshs. 21,341,880 reported in the Financial Year 2018/2019 was due to lease fee charged by Tanathi Water Works Development Agency amounting to Kshs. 19,764,981 from June 2013 to June 2018.

KIMWASCO Board of Directors made a resolution on 7th March 2017 that it would pay TWWDA accumulated lease fee up to 30th May 2013 (Annex 1.3 - Lease fee BOD resolution) when the County Government of Kitui took over as the principal, water services having been devolved to county governments.

The accumulated lease fee from 2008 when TWWDA was incorporated to 30th July 2013 was Kshs. 5,894,026. TWWDA was informed about the Board's resolution through a letter dated 30th March 2016 (Annex 1.3 - Lease fee payable figure) in which an undertaking was made to pay the debt. The debt was cleared in June 2018 and TWWDA informed accordingly through a letter dated 10th July 2018 (Annex 1.4 - Lease fee payment notification).

The figure of Kshs. 19,798,252 relates to the period June 2013 to June 2018 when the company ownership had transited to the County Government of Kitui after the devolution occasioned by the Constitution of Kenya 2010.

KIMWASCO will therefore follow due process to have it written off.

(See Annex 1.3. - Lease fee BOD resolution).

(See Annex 1.4. - Lease fee payment notification).

#### *Committee observation*

*The Committee underscored the need for the management of the KIMWASCO to liaise with the C.E.C.M for the County Ministry of water & Irrigation to have the accumulated debt of Kshs. 19,798,252 written off by Tanathi Water Works Development Agency.*

#### *Committee recommendation*

*The Committee awaits progress report on implementation of the said matter by the management not later than 90 days after adoption of this report by the House.*

#### **4.2.3 Unsupported Customers' Deposits**

The statement of financial position and as disclosed in Note 34 to the financial statements reflects water deposits balance of Kshs. 9,800,195. However, the holding account had a balance of Kshs. 3,779,275 resulting to an unreconciled and unexplained variance of Kshs. 6,020,920.

In the circumstances, the accuracy and completeness of the water deposits balance of Kshs. 9,800,195 as at 30 June, 2019 could not be confirmed.

**Management response:**

The customers' deposits account was reconciled as follows;

Item	Amount (Kshs)	Narration
Deposits as at 30/06/2019	9,800,195	The balance of all deposits from customers since inception of the company in 2009
Less: Deposits inherited from TARDA	1,061,600	These deposits were inherited from TARDA and are declared in the FS as capital reserves (Annex 1.2.1 - Capital reserves note) since TARDA did not maintain separate customer deposits account back in 2009. The amount was transferred back to the deposits account on 3 <sup>rd</sup> February 2021. (Annex 1.2.2 - Refund of TARDA water deposits)
Less: Borrowed deposits	3,146,401	This amount was borrowed following a BOD resolution for the purpose of financing purchase of a motor vehicle (Annex 1.2.3 - BOD borrowing resolution) to be repaid in 12 months. The borrowing was paid back on diverse dates from 19 <sup>th</sup> October 2020 - 11 <sup>th</sup> June 2021. (Annex 1.2.4 - Borrowing refund)
Less: Water meters charges	1,696,500	In order to control quality, KIMWASCO purchases and re-sales water meters to customers. Since 2009, customers had been paying meter charges to the deposits account and then the Company uses the proceeds to acquire more water meters. Kshs. 1,696,500 had since been utilized from the deposits account and the amount was later on reconciled from the account in



		the financial year 2020/2021 (Annex 1.2.5 - Meter charges payment)
Less: Refund from Equity collection account	91,400	This amount was erroneously paid into deposits account as water bill by a customer but later transferred to KIMWASCO's collection account. It was refunded back on 10 <sup>th</sup> February 2021. (Annex 1.2.6 - Refund of Kshs. 91,400)
Less: Bank charges (FY 09/10 to 18/19)	25,019	These were the deposits account bank charges from FY 09/10 to 18/19
Bank balance 30/06/2019	3,779,275	

(See Annex 1.2.1. - Capital Reserves Note).

(See Annex 1.2.2. - Refund of TARDA Water Deposits).

(See Annex 1.2.3. - BOD Borrowing Resolution).

(See Annex 1.2.4. - Borrowing Refund).

(See Annex 1.2.5. - Meter Charges Payment).

(See Annex 1.2.6. - Refund of Kshs. 91,400).

*Committee observations and recommendation*

*The Committee noted that the matter was satisfactorily addressed. However, it recommended that the MD should ensure timely submission of all information required by the Auditor General is produced at the time of Audit.*

**4.2.4 Irregular Payment of Allowances to Board Members**

The statement of profit or loss and other comprehensive income and note 19 to the financial statements reflects Board expenses of Kshs. 1,055,000. However, a review of board minutes and board member's appointment letters revealed that the term of four (4) members of the board had expired in the financial year ended 30 June, 2018 while the

term for the remaining two (2) members expired during the year under review.

Consequently, the validity of the Board expenses of Kshs. 1,055,000 during the year could not be confirmed.

#### **Management response:**

Before the close of the Financial Year 2018/2019, The Kitui County Public Service Board had advertised for the positions of Board of Directors of KIMWASCO in the Standard Newspaper in October 2018 (Annex 1.3.1 - BOD recruitment advert). However, the process had not been concluded by close of the Financial Year, hence necessitating extension of the term of the then current Board Directors by the AGM (Annex 1.3.2 - BOD tenure extension).

The process was completed and new Board of Directors assumed office on 13<sup>th</sup> September 2021. (Annex 3.3 - New BOD gazette notice)

(See Annex 3.1. - Board Recruitment Advert).

(See Annex 3.2. - AGM Resolution Extending BOD Term).

(See Annex 3.3. - New BOD Gazette Notice).

#### ***Committee observation and recommendation***

*The Committee considered and verified the evidence adduced by the witnesses and in that regard, it declares the matter resolved. However, the Committee reprimands the management for late submission of documents which led to an unnecessary audit query.*

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **4.2.5 Non-Revenue Water**

The Company produced 849,138 M<sup>3</sup> of water during the year out of which 513,176 M<sup>3</sup> (61%) were billed to customers. The balance of 335,962 M<sup>3</sup> or 39% of the water produced represented Non-Revenue Water (NRW). This was above the Water Services Regulatory Board set threshold of 25% for Non-Revenue Water.

The significant level of Non-Revenue Water is an indication of inefficiency and lack of effectiveness in the use of public resources and, may negatively impact on the Company's profitability and its long-term sustainability.

**Management response:**

Major causes of water loss during the reporting period

- Frequent bursts along the raising and distribution mains
- Commercial losses due old/faulty meters
- Water theft

Mitigation measures

The following different operating activities have been performed both technically and commercially: -

- Sustained leak repair including burying of exposed pipelines and relocating line prone to damages.
- Replacement of Faulty and old meters.
- Continuous crackdown on irregularities like meter tampering, by-passes, water theft and vandalism. Heavy penalties imposed on culprits.
- Installation of zonal meters for monitoring customer meters
- Allocating each Plumber and Meter Reader specific metering zones and giving monthly targets for NRW & billing
- Monthly monitoring of achievement of targets by Plumbers & Meter Readers.

Further, the technical manager informed the committee that they had developed a policy of addressing issues of pipe burst within the raising main and distribution main. The policy states that the raising main must be attended within 24 hours. While small distribution line should be attended within three days.

He also informed the Committee that there were also meters which don't register low flow of water hence leading to commercial losses.

## ***Committee observations and Recommendations***

***The Committee restates its observations and recommendations under paragraph 4.1.6 of this report (KITWASCO 2018/2019)***

### **4.2.6 Lack of Internal Audit Function and an Audit Committee**

The Company had not established an internal audit function and an Audit Committee during the year under review. This was contrary to Regulation 167 (1 and 5) of Public Finance Management Act (County Governments) Regulations 2015 which requires a county government entity to establish an internal audit function and an audit committee.

In the circumstances, the company is in contravention of the law.

### **Management response:**

The company had an Internal Auditor who was functionally reporting to the Board Finance & Development Committee because the Board had not constituted an Audit Committee. However, the Board constituted Audit, Monitoring & Evaluation Committee as per Min. KIMWASCO/5/Dec/2021 of 8<sup>th</sup> December 2021 (Annex. 2.2.1 - Constitution of Audit Committee) to which the Internal Auditor has been reporting to since then. **Annex. 2.2.1 - Constitution of Audit Committee**

### ***The Committee observed that;***

- i. As at the time of audit, the management flouted the provisions of section 155(1)(a) of the Public Finance Management Act, 2012 which requires a County Government entity to have appropriate arrangements for conducting internal audit committee as per the guidelines issued by the Accounting Standards Board.***
- ii. Independent Audit Committees are tasked with the responsibilities of approving the workplans, reviewing reports and monitoring implementation of the internal audit departments.***
- iii. Lack of the Audit Committee explains the lethargy, inefficiency and ineptness of the Companies internal audit departments which is crucial in undertaking objective appraisals of systems to improve on effectiveness of risk management and operations. This includes assisting the***

*management to comply with laws and regulations, and maintain prudent policies and procedures and reliability of financial and management reporting.*

#### *Committee Recommendations*

*The Committee considered and verified the evidence adduced by the management on the constitution of the audit committee and in that regard, it declares the matter resolved.*

*The Committee, however, reprimands the management for not acting on time hence leading to a superfluous audit query.*

#### **4.2.7 Lack of Risk Management Policy and Strategy**

The Company Management had not put in place risk management policy, strategies and risk register to mitigate against risk. It was therefore, not clear how the management manages risk exposures. This is in contravention of Regulation 158 (1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 which requires the Accounting Officer to ensure that the county government entity develops risk management strategies, which include fraud prevention mechanism; and the county government entity develops a system of risk management and internal control that builds robust business operations.

Consequently, Management was in breach of law.

#### **Management response:**

The Company had just launched its 5-year Strategic Plan during the Financial Year 2018/2019 and was in the process of developing most of its policies in line with the Regulation 158 (1)(a) and (b) of the Public Finance Management (County Governments) Regulations, 2015 and guided by the new Strategic Plan.

KIMWASCO has since developed among other policies, the Risk Management Policy which was approved by the Board of Directors on 10<sup>th</sup> December 2020. (Annex 2.3.1 - Approved Risk Management Policy)

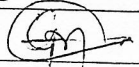
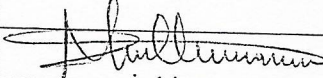
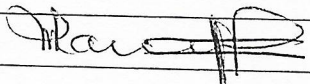
**(Annex 2.3.1 - Approved Risk Management Policy)**

**Committee observation and Recommendation**

*The Committee observed that the matter was satisfactorily addressed hence stands resolved.*

ADOPTION OF THE REPORT ON THE AUDITED FINANCIAL STATEMENTS OF THE KITUI WATER AND SANITATION COMPANY (KITWASCO) AND KIAMBERE-MWINGI WATER AND SANITATION COMPANY (KIMWASCO) FOR THE FINANCIAL YEAR 2018/2019.

We, members of the County Public Investments and Accounts Committee have, pursuant to Standing Order 179, adopted this report and hereby affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity: -

S/No	Name	Signature
1	Hon. Gabriel Mutunga Munyao	
2	Hon. David Masaku Munyau	
3	Hon. Godfrey Muthengi Ndagara	
4	Hon. Jeremiah Musee Mutua	
5	Hon. Paul Maluki	

10/20/2011

ADDITION IN  
STATEMENTS  
BETWEEN A  
COMPANY  
AND  
CONTRACTOR  
AND  
PROPERTY  
INVESTOR

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