

4.0. METHODOLOGY

The Committee was guided by the provisions of Rule 129 of the Rules of Procedure of the Parliament of Uganda to examine the Bill in detail and make all such inquiries in relation to it.

In line with these rules, the Committee;

- i. Received submissions and held meetings with the sponsors of the Bill; the Ministry of Energy and Mineral Development,
- ii. Reviewed literature from countries with thriving electricity sectors
- iii. Received views and interfaced with other key Government Ministries and Parastatals.
- iv. Received submissions and held meetings with members from the private sector.

The comprehensive list of all stake holders with whom the Committee interacted includes; Energy Generators and Distributors Association of Uganda, Frank Energy Consultants Limited, Kanara Solutions Ltd, Dr. Benon Mugisha Mutambi, Attorney General, Leader of Opposition in Parliament, Uganda Law Society, Africa Institute for Energy Governance, Minister for Privatization and Investment, Uganda Manufacturers Association and Price Waterhouse Coopers (PWC).

5.0. LIMITATIONS

Due to resource limitations the Committee did not physically benchmark countries with thriving electricity sectors.

The limitations notwithstanding, the Committee interacted with various stakeholders, examined the Bill and came up with proposed amendments herein.

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6.0 COMMITTEE ANALYSIS, OBSERVATIONS AND RECOMMENDATIONS

This part of the report will examine the proposed clauses of the Bill, their legality, effect and effectiveness in light of the Constitution, existing laws and policy, court decisions, and the mischief it intends to cure. The analysis is based on thematic areas as provided for in the Bill as well as new proposals to the Bill.

6.1. 1 COMPOSITION OF THE AUTHORITY

Section 5 of the Principal act provides for the composition of the Authority which shall be five members of high moral character and proven integrity. The Committee observed that that there was a need to provide for clear academic qualification of a member, considering the nature of the functions of the authority, this requires education up to a higher level. The Committee further observed that it is imperative to cater for affirmative action for women.

Committee Recommendation

The Committee recommends that a new clause be inserted after clause 3 to read as follows;

The Principal Act is amended in section 5 by inserting two new sub clauses after sub section (4) to read as follows-

"(4a) A member appointed under this section shall have a minimum qualification of a university degree.

(4b) At least one third of the members of the authority shall be women"

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6.1. 2. TENURE OF OFFICE OF MEMBERS

Clause 3 of the Bill seeks to introduce a staggered term for the members of the board of the Authority. It amends the Principal Act in section 7 by substituting for subsection (1) the following - (1) the members appointed to the authority shall hold office as follows - (a) the chairperson and two members shall hold office for five years; and (b) two members shall hold office for four years.”

The Committee observed that the essence of a staggered term is to provide for continuity of service and transfer of knowledge within both the old and new members of the Authority. However, the proposed amendment is discriminative in nature since there is no proper mechanism to decide on how the two members to serve for 4 years and others 5 years shall be selected.

Committee recommendations

The Committee recommends that clause 3 be redrafted as follows:

- (1) A member of the Authority shall hold office for a term of five years and is eligible for re-appointment.**
- (2) The Chairperson and two members shall be appointed at the same time, while the other two members' shall be appointed one year later.**
- (3) A member shall not be appointed for more than two terms.**

6.2. FUNCTIONS OF AUTHORITY

Clause 4 of the Bill seeks to amend section 10 of the Principal Act by substituting for the words “transmission and distribution companies” the word “licensees” in paragraph (g) and by inserting new paragraphs (qa), (qb), (qc) and (qd) to provide for additional functions of the authority.

The Committee noted that the functions provided for under clause 4 (qb) (qd) are already provided for under section 10(r), (l) and (s) of the Principal Act.

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The Committee further noted that clause 4(qc) seeks to take on some of the powers of the Minister who holds the role of overseeing and developing policies for the sector.

Committee Recommendations

The Committee recommends that clause 4(qb) be amended to add the word “research” immediately after the word “consultancies”.

The Committee recommends that section 10(l) of the Principal Act be deleted and clause 4(qd) of the Bill maintained.

The Committee further recommends that clause 4(qc) be deleted.

6.3. FUNDS OF THE AUTHORITY

Clause 5 of the Bill seeks to amend section 22 of the Principal Act by substituting the figure “0.3” with the figure “0.7” to increase funding to the authority, and to provide for an additional funding to the authority. The Committee noted that the Authority currently has a funding gap of 8.3 Billion.

Indeed, considering the fact that additional funding to the Authority would lead to bridging the said funding gap which in the medium term would result in efficiency gains, bringing on board more consumers and ultimately result in lower tariff. The Committee is in agreement with the proposed amendment.

Furthermore, the Committee is of the view that the electricity sector has grown and continues to significantly grow and this calls for additional funding for the Authority to fully carry out its mandate.

The Committee noted that over the last 7 years, the scope of the Authority’s functions has broadened fundamentally which has seen rapid increase in the number of licensed projects of diversified technologies including Hydro, wind, bagasse, geothermal, biogas, solar etc. The number of operational generation power stations has increased from one (1) in 1999 when the Principal Act was

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passed to forty-four (44) as of December 2021. This has necessitated strengthening the monitoring and compliance function of the Authority which calls for additional funding.

The Committee again noted that in assessing the resource needs of the authority, the tariff has been forecasted in line with the ongoing efforts to reduce the tariff for manufacturers who consume nearly 70% of the energy demand in the country to US\$ 5 Cents per KWh and energy sales are projected to increase by 11,203KWh by 2024, and a generation levy of 0.7% has been applied and as such, the authority will be able to achieve financial sustainability in the long run and ultimately, lower tariffs for all consumers.

Committee Recommendation

The Committee recommends that clause 5 stands part of the Bill.

6.3.1. ELECTRICITY DEVELOPMENT FUND

The Electricity Supply Industry (ESI) has a significant deficit in transmission and distribution infrastructure.

The Committee observed that the transmission and distribution networks require an estimate of US\$ 2.5 Billion and US\$ 1.5 Billion in new investments respectively to repair and rehabilitate the network. This level of required financing is so high and would require additional loans to achieve; which is not sustainable for Uganda.

The Committee is of the view that there is need to establish the Electricity Development Fund with funding largely coming from monies appropriated by parliament, surpluses of the authority and any other, grants, donations and gifts as provided for under Section 64 (2) of the Principal Act.

The Committee contends that creation of the fund will help to provide financing for; electricity infrastructure like transmission and distribution grid network infrastructure. This would boost demand for electricity leading to a further

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The Committee observed that Government owns the largest dams, the entire transmission and distribution assets in the Country and therefore can by policy use this leverage to sell power to industries at a low cost as currently planned in industrial parks.

The Committee further observed that in addition to allowing direct supply of electricity from generation to specified class or category of customers, Uganda Electricity Distribution Company Limited already has in-house capacity and thus should also be given the responsibility of distributing power to industries in the industrial parks at a tariff determined by Government. This action would of necessity eliminate UMEME in service territories where it is not licensed and in effect implement the Presidential directive of selling power to industries at a tariff that eliminates the expensive distribution costs of Umeme.

The Committee contends that since Generation does not own any Transmission or Distribution networks, implementing the Presidential Directive would be challenging; yet the Uganda Government owned power distribution line already exists and would do the same job at a tariff given by Government.

The Committee further noted that clause 14 seeking to insert section 56(3) will not only remove the role of Government as a single buyer but also have the Government cede its mandate to provide investor confidence in the electricity supply industry. Most importantly, UMEME's concession that has thirty-five (35) months to go would not allow another distributor to enter industrial parks except by an Act of Parliament.

Committee Recommendations:

The Committee recommends that clause 56 (3) that is being inserted into the Principal Act by clause 14 of the Bill be amended as follows;

- 1. Delete subsection 56(1)***
- 2. Substitute the word "circumstances" with the word "terms" under section 56(3)***

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3. Replace the words “ holder of a generation licence” with the word licensee under section 56(3)

4. A new subsection inserted immediately after subsection 56(3) to read as follows; the authority in prescribing the regulations and circumstances as prescribed in 56(3) shall not show any undue preference and discrimination

6.5. TARIFFS AND TERMS OF SUPPLY

Clause 15 of the Bill seeks to amend section 75 of the Principal Act to incorporate all renewable energy projects including wind, biomass, peat and solar to be liable to pay royalties. The Clause further seeks to empower the authority to prescribe the maximum royalties payable by generation licensees of renewable energy projects.

Net metering means a system that operates in parallel with the distribution system of a licensee and that measure, by means of one or more meters, the amount of electrical energy that is supplied.

The Committee contends that net metering is standard practice in electricity markets globally. That some electricity consumers in Uganda like the UPDF at Kololo Ceremonial Grounds are already doing it but with no legal framework to support its roll out to businesses, homes and institutions throughout Uganda. It is therefore imperative that each distribution licensee should, upon application, make available net metering service to any electricity consumer or captive power generator that the licensee serves.

Committee recommendation

The Committee further recommends that two new Sub-clauses be inserted under clause 15 to amend Sec. 75 of the Principal Act by introducing a new sub-section immediately after sub-section 10 read as follows;

- i) An application for a distribution license shall include a net metering plan for all customer-consumer categories.**
- ii) The application shall be granted after satisfying the requirements of metering as provided for in the regulations**
- iii) The Committee further recommends that the term “net metering” be defined.**

6.6. OFFENCES RELATING TO LICENCES

Clause 18 of the Bill seeks to substitute section 83 of the Principal Act in order to provide a deterrent penalty for licensees who fail to comply with the terms of the licence. It further seeks to insert section 83B into the Principal Act to empower the authority to impose administrative fines in case of breach of the terms of the licence by the licensee.

The Committee noted that the penalty for noncompliance was increased to 10,000 currency points (UGX 200,000,000 million) from only UGX 100,000; further more continued violations a licensee will be subject to a fine of UGX. 10,000,000 (Ten Million Uganda Shillings) for every further day of non-compliance.

The Committee further observed that for the penalty to be effective it should not constitute part of the allowable regulated costs for the licensee for purposes of tariff, calculation and this should be reflected in the Bill.

The Committee noted that the use of the word ‘satisfied’ under section 83B (1) is subjective and that it gives wide discretion to the Authority in deciding who has contravened their licence and the fines to be paid. It is therefore pertinent that clear procedures to ensure fairness in investigating and determining the establishment of breaches and commensurate penalties should be included as well as right to appeal to the electricity disputes Tribunal.

Committee Recommendations:

The Committee recommends that;

- (i) The words “under this act” be added immediately the word section under section 83A (2).**
- (ii) A clause be inserted immediately after clause 18(4) d providing penalties imposed under this Act shall not form part of the licensee’s allowable regulated costs for purposes of tariff calculation.**
- (iii) A new sub clause be inserted after the one above to provide that; a licensee aggrieved by the decision of the authority made under this section shall have a right to appeal to the Electricity Disputes Tribunal within 28 days.**

6.7. VANDALISM OF ELECTRICAL FACILITIES

The Committee noted that clause 19 seeks to amend section 85 of the Principal Act by providing for deterrent penalties for vandalism of electrical facilities.

The Committee observed that the penalty for interference with meters and electrical lines, vandalism and illegal connections was increased from UGX 100, 000 (One Hundred Thousand Uganda Shillings Only) or imprisonment for one year to four million Uganda shillings or a ten-year imprisonment or both for receiving vandalized electrical facilities, repeat vandalism, and interference with electrical works. The fines and penalties would be adjudicated through the Utilities Court of the Buganda Road Chief Magistrates Court.

The Committee observed that UETCL spends on average over UGX. 600 million (Six hundred million) per annum to repair vandalized towers on the existing lines across the country. Given the current rate of vandalism and the growing size of the transmission lines, these costs will increase unless the vice is contained.

The Committee noted that electricity distribution lines were equally vandalised. Over UGX. 26 billion has been lost due to vandalism of distribution electricity networks across the country.

The Committee observed that the increased penalties are meant to deter interference with electrical works. Most recently, the cost of vandalism had become an impediment to electricity extension in Uganda where high voltage pylons were vandalized. In some cases, such as the Karuma – Lira transmission line, over 26 kilometers of the 132kV UETCL line and 29 towers were badly vandalized; in Tororo District on the 132 KV Tororo- Lira transmission line. The cost of restoration and replacement of each pylon is prohibitively high and in some cases is as high as USD 100,000 (One Hundred Thousand United States Dollars) per pylon.

The Committee therefore observed that there is need to deter the vice in the most stringent of terms by increasing the penalties and imprisonment for criminals' involved in vandalizing power transmission and distribution infrastructure.

Committee Recommendation

The Committee recommends that Clause 19 be amended to provide for insertion of section 85A into the Principal Act rather than substituting clause 19 for section 85 of the Principal Act.

The Committee further recommends that the penalties under section 85 of the Principal Act be brought in tandem with the proposed penalties of the Bill

6.8. THEFT OF ELECTRICITY

Clause 20 of the Bill seeks to amend section 86 Diversion of energy and damage to supply lines to provide for deterrent punishment for theft of

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electrical energy. The Committee observed that clause 20 does not provide for diversion of energy.

Committee recommendations

The Committee recommends that Clause 20 be amended to provide for insertion of section 86 A into the Principal Act.

The Committee further recommends that the penalties under section 86 of the Principal Act be brought in tandem with the proposed penalties of the Bill

6.9. CONSTITUTION OF TRIBUNAL FOR EXERCISE OF IT'S POWERS

Clause 25 of the Bill seeks to amend section 105 of the Principal Act to provide for the constitution of the Tribunal for exercise of its powers, the constitution of panels, quorum for the exercise of the powers of the Tribunal or panel and transfer of a case from one panel to another.

The Committee noted that it was prudent to provide for circumstances where the Vice Chairperson be permitted to preside over one panel. That is to say, where one panel is headed by the Vice Chairperson and another by the Chairperson as opposed to both the Chairperson and Vice Chair Person sitting on the same panel so as to expedite dispensation of matters before the Tribunal.

Committee Recommendation

The Committee recommends that a new sub clause be inserted immediately after section 105 (2) to provide that the Vice Chairperson shall preside over the panel constituted by the Chairperson.

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7.0. REGISTRAR AND STAFF OF THE TRIBUNAL.

Clause 28 of the Bill seeks to amend Section 112 of the Principal Act that the staff of the Tribunal shall be appointed by the Tribunal. The Committee took

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