



**REPORT OF THE COMMITTEE ON PUBLIC ACCOUNTS
(CENTRAL GOVERNMENT) ON THE AUDITOR GENERAL'S
SPECIAL AUDIT REPORT ON THE NAMANVE THERMAL
POWER PLANT (NTPP) FOR THE YEAR ENDED 30TH JUNE,
2021**

[Handwritten signature]

[Large handwritten signature]

[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

Office of the Clerk to Parliament
Parliament Buildings, Kampala
March, 2022

[Handwritten signature]

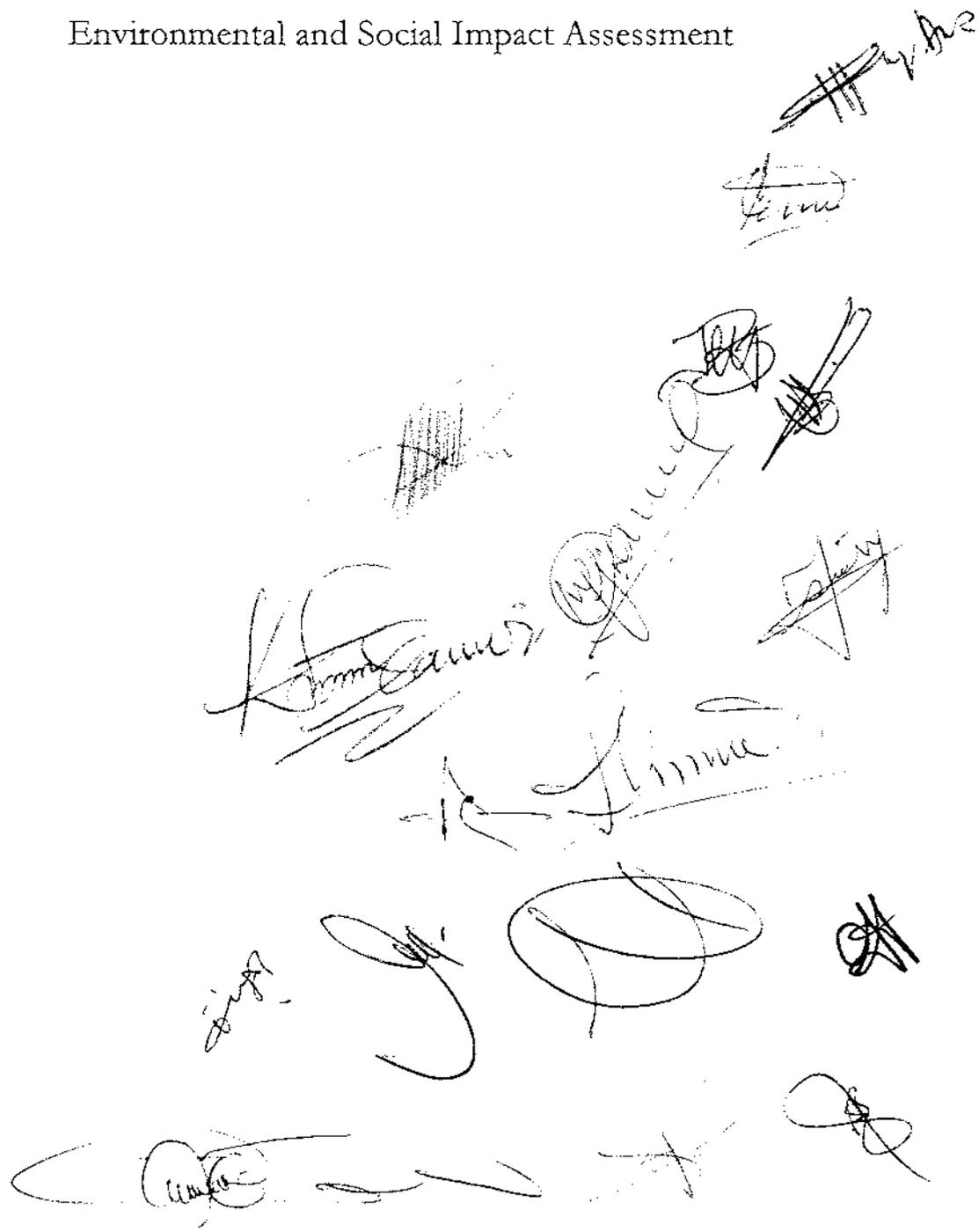
[Handwritten signature]

[Handwritten signature]

[Handwritten signature]

ABBREVIATIONS:

- GoU** - Government of Uganda
- UEGCL** - Uganda Electricity Generation Company Limited
- UETCL** - Uganda Electricity Transmission Company Limited
- JUPPCL** - Jacobsen Uganda Power Plant Company Limited
- MoFPED** - Ministry of Finance and Economic Development
- IA** - Initial Agreement
- ESIA** - Environmental and Social Impact Assessment



The lower half of the page contains several handwritten signatures and scribbles. At the top right, there is a signature that appears to be 'J. M. M.' with a large 'X' over it. Below it is another signature, possibly 'J. M. M.'. In the center, there is a large, stylized signature that looks like 'K. M. M.'. To the right of this is another signature, possibly 'J. M. M.'. Below these are several other signatures, including one that looks like 'J. M. M.' and another that looks like 'J. M. M.'. There are also several scribbles and marks scattered throughout the lower half of the page.

1.0. INTRODUCTION

On 5th October 2021, this House referred to the Public Accounts Committee – Central Government, a special audit report on the technical, legal and financial evaluation of Namanve Thermal Power Plant by the Auditor General for the year ended 30th June, 2021.

2.0. METHODOLOGY

Pursuant to Rule 174, the Committee scrutinised the report of the Auditor General by meeting the following stakeholders;

- (1) The Accounting Officer, Ministry of Energy and Mineral Dev't
- (2) The Management of Jacobsen Uganda Power Plant Co. Ltd
- (3) The Management of Uganda Electricity Generation Co. Ltd
- (4) The Management of Uganda Electricity Transmission Co. Ltd
- (5) The Management of Electricity Regulatory Authority

In examining the report, the Committee reviewed and made reference to the following documents;

- a. The special audit report by the Auditor General on the Namanve Power Plant,
- b. The Implementation Agreement between GoU and Jacobsen Elektra AS Norway,
- c. The opinion of the Attorney General on the implications of the expiry of the Implementation Agreement.
- d. The Draft Power Purchase Agreement to be executed between UEGCL and UETCL for Namanve Thermal Power Plant.
- e. Implementation Plan for Namanve Thermal Power Plant showing readiness for take over.
- f. Concession and Assignment Agreement between Eskom (U) Ltd and UEGCL relating to Kira and Nalubale hydroelectric facilities.
- g. Copies of Certificate of Titles of land on which the facilities sit.

The Committee further undertook a field visit to the Thermal Power Plant in Namanve.

3.0. Background

On the 13th April, 2007, Government of Uganda (GoU), through the Ministry of Energy and Mineral Development entered into a build-operate-and-transfer Implementation Agreement (IA) with Jacobsen Elektra AS Norway for the building, operation and maintenance of a 50MW heavy fuel thermal Plant at Namanve for a period of 13years and thereafter, transfer it to GoU in accordance with the provisions of the IA.

The IA was set to expire in September 2020 and Government commenced preparations for takeover, pursuant to section 2.1 of the IA by instituting a multi-institutional Committee to plan for a seamless transfer of the Plant to GoU while guaranteeing continued supply of thermal electricity as and when required. The multi-sectoral committee recommended that a technical, financial and legal due diligence of the Plant be carried out before hand over pursuant to sections 6.1.3, 6.1.4 and 6.16 of the IA to establish the status quo of the Plan, Assets and Liabilities among others.

However, this recommendation did not take place in time due to Covid-19 restrictions and lack of funds for the due diligence, prompting the multi-sectoral Committee to recommend an extension of the IA for a period of 1 year (ending 15th September 2021) to allow the Government finalise arrangements for the due diligence study. The study was eventually done and a report presented to the Ministry in August 2021.

The study determined, among others, that there were existing obligations by GoU which had to be settled, estimated at UGX 14,427,232, 228 before the handover.

The Committee was informed that Government has since met all its obligation to JUPPCL and the handover of the Plant had been scheduled for 15th February, 2022. This Followed a series of back-and-forth engagements

A collection of handwritten signatures and initials in black ink, located at the bottom of the page. Some are large and stylized, while others are smaller and more compact. They appear to be official signatures of various individuals involved in the process.

that included arguments by GoU that Section 16.13 of the IA preserves the parties' obligations regardless of the termination or expiry of the agreement and counter-arguments by JUPPCL that the same provisions had been misinterpreted as it did not apply where the Government or any defaulting party would wish to use them to avoid meeting its contractual obligation.

4.0. Key observations and Recommendations in the special audit report

a. Overall Plant condition and performance

The Auditor General (AG) notes in his report that overall, the power plant was found to be in a good condition based on a site visit conducted and other information reviewed. The AG noted some minor incidents however, affecting performance that included the generator differential protection nuisance tripping, which was noted to be a recurring problem, lack of formal maintenance philosophy, lack of an oil spill contingency plan and a non-functional computerised maintenance system-Maximo.

The Committee established while interacting with the Ministry of Energy that Uganda Electricity Generation Co. Ltd (UEGCL), a government agency appointed by Government to operate and maintain the plant after the transfer, is already in discussions with the original manufacturer, Wartsila to carry out a detailed technical analysis of the power plant. It is hoped that their report will help to draw up a list of maintenance requirements.

The Ministry of Energy further informed the Committee that other works such as earthing, Maximo and the non-functionality of the original black start system have been reinstated by the then plant operator as a pre-condition before take over. The Government hopes to net it off from outstanding money to be paid to the outgoing plant operator.

The Committee notes that the Plant has since been taken over by Government. Going forward however, Government should endeavour to regularly determine the costs of repair and maintenance of such

Handwritten signature/initials

Handwritten signature/initials

Handwritten signature/initials

Handwritten signature/initials

Handwritten signature/initials

Handwritten signature/initials

Large handwritten signatures and initials at the bottom of the page

enterprises through detailed studies. This will give a clear estimation of the cost of the obligation.

b. Valuation of the plant

The Auditor General notes in his report that the value of the Namanve thermal power plant was estimated at Euros 27.6Million after taking into account the depreciated cost of Euro 39.15M on the original plant cost of Euro 66.551m. The report further notes that the land was valued at UGX 4.4billion of the total value of the land, with additional land acquired by Jacobsen Power Plant Co. Ltd (JUPPCL) being valued at UGX 800m (USD 217,937).

The Auditor General recommended that Government should enter into negotiation with JUPPCL to buy off the said land and compensate the company for the value of the additional improvements made.

The Committee found out that the Ministry of Energy has since engaged the Chief Government Valuer to make a determination on the true value of the land and the developments on it before compensating the company.

The Committee recommends that in future, Government should be more exhaustive in their negotiations and undertakings to avoid ambiguity when settling obligations.

C. Land Ownership.

The Committee notes that one of the contentious obligations which had been asked by JUPPCL before transfer of the plant is compensation of the additional land acquired by the Company and lack of a clear plan by Government on how it intends to settle all the other obligations.

While meeting JUPPCL, the Committee was informed that the land initially availed to them by the Uganda Electricity Transmission Co. Ltd (UETCL) for use at Mutundwe was found to be inappropriate for use after an ESIA study. The next one offered at Namanve was equally found to be unsuitable

for the establishment of the plant after Geotechnical investigations revealed that the land was not firm enough to withstand vibrations from the machines.

The Company stated that because they had already signed an Implementation and Power Purchase Agreement with UETCL and given the load shedding and the intermittency in power supply in the Country then, they found it imperative, as a matter of urgency and necessity, to acquire additional land and construct the plant to help ease the power needs.

The Committee notes that although the Company say they held discussions with UETCL before acquiring the additional land and were given a go ahead, a letter seen by the Committee dated 15th June, 2007 by UETCL in reply suggests that they were not authorised to purchase any additional land. UETCL was categorical in the letter that the 3.77 acres land it had made available was adequate and that any other purchase would be too expensive. At this point however, the company had already procured the additional land without approval and no corresponding provisions in the IA

On interrogating the matter further, the Committee found out that the additional land bought by JUPPCL for the Plant is owned by a one Mr. Omulen Lawrence, the Current Chairman Board of Directors of the Company and is held by the Company on lease granted by him. Apparently because the company was foreign owned, it could not acquire mailo land. As it is now, the plant stands on land partly owned by UETCL and JUPPCL, for which they sought compensation.

The Committee recommends that Government should acquire Mailo interest for the said land.

In future, Government should be more exhaustive in negotiations and thrash out every detail. E.g whether this land was a recoverable cost or part of the investment by the investor.

[Handwritten signature]

d. Additional Investments by JUPPCL

The Auditor General notes in his report that the management of JUPPCL submitted claims totalling USD.3,634,383 in respect to additional investments made. However, supporting documents reviewed during the audit revealed that only USD.2,943.810 was satisfactorily verifiable. The Auditor General recommended that Government should enter negotiations with JUPPCL on how the company can be compensated.

An opinion by the Attorney General seen by the Committee on settlement of financial obligations as determined by the Auditor General reads; *“Settlement of financial obligations as determined by the report of the Auditor General is not part of the obligations of the parties under the LA and therefore cannot be a precondition to effect the transfer of the Plant as suggested by Jacobsen. Settlement of the financial obligations is subject to a separate agreement by the parties outside the LA”.*

[Handwritten signature]

JUPPCL however faulted the opinion of the Attorney General on grounds that he is conflicted in the matter as his Law Firm had represented UEGCL, a company that was fronted by Government to take over the Plant before. The Committee however did not find merit in the claims by JUPPCL, since the Law firm in question represented UEGCL long before the Attorney General was appointed. The agreement was also for a fixed period of time and was silent on any precondition for a hand over, therefore making it untenable.

[Handwritten signature]

The Committee recommends that Government should in future be more meticulous in drafting such agreements to leave no room for ambiguity.

[Handwritten signature]

Government should also endeavour to honor its obligations in time to avoid such avoidable conflicts.

[Handwritten signature]

[Handwritten signature]

d. Tax Obligation.

The Auditor General noted in his report that JUPPCL owed Government a total of UGX.4,427,136,909 in taxes, which remained outstanding at closure

[Multiple handwritten signatures and marks]

of the due diligence exercise. It was however noted that JUPPCL was also demanding UGX.299, 292,530 in tax credit.

The Ministry of Energy informed the Committee that they would ensure that any outstanding tax obligation owed are settled by the Company. They have since written, in a letter seen by the Committee, to Uganda Revenue Authority to ascertain any other tax obligations owed before settling Government's obligations to JUPPCL in order to facilitate the transfer of the Plant to GoU.

JUPPCL on its part clarified that it was fully compliant in terms of tax credit and NSSF obligations. The Committee tasked the Ministry of Energy to follow up on these two essential statutory obligations.

The Committee recommends that in future Government should ensure that all obligations are met as stipulated in the agreements from both parties before negotiations for take over.

e. Legal Due Diligence

the report of the Auditor General noted significant compliance with the legal requirements in the IA and other provisions; save for issues like absence of maintenance records and a non-functional maintenance system, ownership of land on which the Plant is located, actual asset list and inventory list as required by the Generation and Sale License of 2020.

The Committee recommends that Government should take interest and close all non-compliance loopholes as they are prone to abuse.

With regard to land and buildings which were valued under the due diligence, the Government should seek the approval of the Chief Government Valuer and the true value before entering such negotiations for compensation in future.

f. Takeover

From the due diligence report that covered the technical, financial and legal aspects of the Plant, there were existing liabilities by GoU to a tune of

[Handwritten signature]

UGX.14, 427, 232, 228 which had to be settled. In that regard, JUPPCL had insisted that GoU had to first settle all its obligations before the transfer of the power Plant despite a transfer agreement being in place. The Company contends that expiry of the IA without full payment by GoU would constitute a dispute.

Government on its part had committed, through the MoFPED, that it would redeem its obligations in the second quarter of the financial year and advised that GoU proceeds to conclude the transfer of the Plant to UEGCL.

From the foregoing therefore, the Committee advises Government to always settle its obligations in a timely manner.

[Handwritten signature]
[Handwritten signature]

General Observations

1. JUPPCL was originally foreign owned and has since been transferred into a local company through sales of shares to Ugandans. It is therefore fully Ugandan owned company which has built capacity on the continent in this sector. Such companies ought to be supported to realise the value in building such expertise and capability which could in future be exported to generate the much-needed foreign exchange and foreign specialised wealth.
2. The Committee observed that whereas UEGCL is a Government enterprise, it's a company which is subject to the provisions of PPDA & Regulations. These were omitted in granting it concession by Government without giving other companies, including JUPPCL a chance to compete for the job.
3. Owing to the monopoly given to UEGCL, it is apparent that Gov't could obtain a lower bid as indeed agreed by JUPPCL in its submission.

[Handwritten signature]

Recommendation

- 1. Government should always undertake efforts to promote local companies which have demonstrated expertise and capability in specialised and technical areas like this sector. Companies like UEGCL, JUPPCL should be supported and encouraged to compete favourably.*
- 2. It is the considered opinion of the Committee that JUPPCL, which had quoted a comparatively lower cost to run the Plant be allowed to continue with the Job. For example, UEGCL quoted a start up cost of \$30.03/MWh, a charge JUPPCL did not need to incur. Similarly, JUPPCL quoted a Declared Capacity Charge of \$6.60/MWh against \$7.08/MWh of UEGCL, over and above the market prices.*
- 3. Government and indeed all parties should respect and follow the PPDA & Regulations, for they were not made in vain.*

[Handwritten notes and signatures on the right margin, including 'H. H. H.', 'J. J.', and other illegible scribbles]

Conclusion

The global energy needs are continuing to diversify and evolve as the market for renewable energy production has become more competitive and cost-efficient in comparison to traditional fossil-fuels. As a country, we should work to reduce greenhouse gas emissions. We should have a significant investment in the development of renewal energy infrastructure and technologies.

Thermal Power Plants are expensive in terms of fuel and maintenance and as a result, the emphasis for Uganda should be new investments on more environmentally efficient energy solutions including wind, solar and natural gas which are comparatively cheaper in the long run.

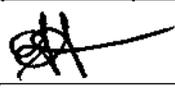
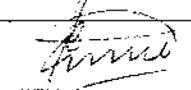
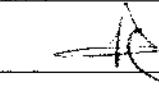
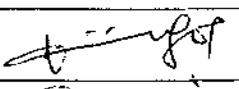
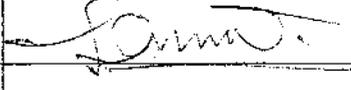
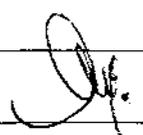
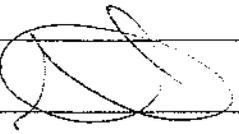
I beg to move.

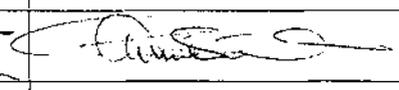
[Large handwritten signatures and scribbles at the bottom of the page]

[Handwritten signature]

LIST OF MEMBERS ENDORSING THE REPORT OF PAC – CENTRAL GOV'T ON THE AUDITOR GENERAL'S SPECIAL AUDIT REPORT ON THE NAMANVE THERMAL POWER PLANT (NTPP) FOR THE YEAR ENDED 30TH JUNE, 2021

S/n	Name	Constituency	Sign
1.	Hon. Lubega Medard Ssegona	Busiro East	<i>[Signature]</i>
2.	Hon. Basalirwa Asuman	Bugiri Municipality	<i>[Signature]</i>
3.	Hon. Adriko Yovan	Vurra County	<i>[Signature]</i>
4.	Hon. Atyang Stella	DWR Moroto	<i>[Signature]</i>
5.	Hon. Angura Fredrick	Tororo County South	<i>[Signature]</i>
6.	Hon. Afidra Olema Ronald	Lower Madi County	
7.	Hon. Atima Jackson	Arua Central	
8.	Hon. Bataringaya Basil	Kashari North County	<i>[Signature]</i>
9.	Hon. Bukenya Michael Iga	Bukuya County	
10.	Hon. Okot John Amos	Agago North County	<i>[Signature]</i>
11.	Hon. Kyooma Xavier	Ibanda North	<i>[Signature]</i>
12.	Hon. Siliwany Solomon	Bukooli Central	<i>[Signature]</i>
13.	Hon. Nandala Mafabi	Budadiri West	
14.	Hon. Okin P. P Ojara	Chua West County	
15.	Hon. Onekalit Denis Amere	Kitgum Municipality	
16.	Hon. Okae Bob	Kwania North	<i>[Signature]</i>
17.	Hon. Lukwago John Paul Mpalanyi	Kyotera County	
18.	Hon. Opendi Sarah	DWR Tororo	
19.	Hon. Sam Kavuma (Maj. Gen)	UPDF Rep	

20	Hon. Kyebakutika Manjeri	Jinja District	
21	Hon. Mawanda Micheal. M	Igara East	
22	Hon. Natumanya Flora	DWR Kikube	
23	Hon. Kwezira Eddie Wagahungu	Bukimbiri County	
24	Hon. Lematia John	Ayivu West County	
25	Hon. Paparu Lillian Obiale	DWR Arua	
26	Hon. Modoi Isaac	Lutseshe County	
27	Hon. Ninsiima Boaz Kasirabo	Kooki County	
28	Hon. Otiam Emmanuel	West Budama	
29	Hon. Rutahigwa Elisa	Rukungiri Municipality	
30	Hon. Ruyonga Joseph	Hoima West County	
31	Hon. Nsegumire Muhammad	Mityana North	
32	Hon. Begumisa Mary	DWR Ssembabule	
33	Hon. Kugonza Emely	Bunyaja County	
34	Hon. Lolem Micah Akasile	Upe County	
35	Hon. Lokwang Hillary	Ik Ik County	
36	Hon. Mugabi Susan	DWR Buvuma	
37	Hon. Lukyamuzi David K	Busujju County	
38	Hon. Nabukenya Brenda	DWR Luwecro	
39	Hon. Kyebakutika Manjeri	Jinja District	
40	Hon. Mpuuga Mathias	Nyendo-Mukungwe County	
41	Hon. Chemutai Everlyn	DWR Bukwo	
42	Hon. Aogon Silas	Kumi Municipality	

43	Hon. Zijjan David Livingstone	Butembe County	
44	Hon. Museveni William	Buwekula County North- South	
45	Hon. Kinyamatama Suubi Juliet	DWR Rakai	
46	Hon. Okabe Patrick	Serere County	