



Electricity Regulatory Authority

Report On The Public Hearing Held In Respect Of
Kakira Sugar Works (1985) Limited For Their
Application For A Licence To Generate And Sale
Electricity To The Grid.

Held at Sunset Hotel – Jinja.

April 20th 2004.

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EXECUTIVE SUMMARY:

Objective:

Electricity Regulatory Authority conducted the public hearing with the objective of providing an opportunity for project proprietors to explain to a wider audience their proposal.

The following are the key objectives for conducting the Hearing: -

- To make sure that all parties concerned get a fair chance to provide their inputs for the decision making process.
- To enhance transparency.
- To make sure that all issues of concern are conveyed to the decision maker (the Authority) in a more informative manner.
- To verify whether any proposed action, decision/solution is viable and effective.

Topics:

At the Hearing different presentations were made in power point to intrigue the minds of the audience in order to enrich the discussion. Topics were made in respect of:

- The purpose of stakeholder consultation by the Regulator.
- The legal basis and rationale for public hearings.
- Technical interpretation and requirements for the project.
- The financial and economic interpretation of the Project.

Issues of concern from the public:

- Project tangible benefits to the rural communities surrounding the Project.
- Affordability of the bulk supply tariff and ultimately the end-user tariff.
- Precedence in Sector for approving high costs of embedded generation.
- Kakira's corporate social responsibility to surrounding communities' to-date.
- Criteria for availing Government subsidies to project and how much.
- Existing insufficient supply of power and persistent power rationing.
- Transparency of Power Purchase Agreement already approved without public participation.
- Protection provided to Investor and legal implications for Ugandans.
- Responsibility of who pays for damages should they occur due to supply of power.
- Penalties for the project proprietors should they fail to meet standards.

- Where else in Africa, or the globe such a project i.e. bagasse for power generation has been tried and tested and found successful.
- Whether the local authorities can collect royalties from the project.
- Failure for the target group such as those affected by the project to attend the Public Hearing simply because both the venue, and method of dispatching info / presentations is unfriendly to them i.e. technical language is used in English at a highly sophisticated venue.

Several questions were raised in relation to the issues highlighted above and both ERA and KWS Ltd provided satisfactory responses.

OPENING REMARKS:

1. The chairman of ERA, in his opening remarks thanked the audience for honouring ERA's invitation to the public hearing. He noted that electricity generation was presently insufficient in Uganda and hence the need to increased supply, and access to rural areas. Of concern to him was the present statistics, which stand at 5% coverage and 1% in rural areas.
2. He highlighted several issues such as:
 - a. The enactment of the Electricity Act to guide operations in the electricity sector.
 - b. The unbundling of UEB, and subsequent liberalization of the sector as Government measure to improve efficiency and increase capacity
 - c. Establishment of the Regulator and a framework for the electricity sector towards fulfilling of policy objectives.
 - d. The recruitment of professional staff to run the secretariat.
 - e. Importance of the Public Hearing and discipline required in letting everyone get heard.
 - f. Appealed to the audience to be open-minded, focused and free to raise queries with ERA.

THE PURPOSE OF STAKEHOLDER CONSULTATION BY THE REGULATOR.

Eng Dr. Frank Sebbowa, Chief Executive Officer, ERA made this presentation and noted that:

1. Stakeholder consultation is meant to reduce post-decision friction from less-satisfied parties.
2. Consultation is also meant to pave way for all parties concerned to collaborate in implementation of the decision/s.
3. Public Hearings help to explore undiscovered truths about the project.
4. Sometimes Public Hearings are the only way to get views of the weaker stakeholders in society.
5. Such consultation also enables the Authority balance better the interests of all stakeholders.

Details of presentation are contained in annex **C**

LEGAL BASIS AND RATIONALE FOR PUBLIC HEARINGS.

Mr. Johnson Kwesigabo, Secretary/ Legal Counsel, ERA in his presentation noted that:

1. The electricity Act 1999 (Act 6, 1999) section 12 requires ERA to conduct its function in a manner that is:
 - a. Open (transparent) and objective.
 - b. Fair and reasonable.
 - c. Non-discriminatory and
 - d. Promotes competition.

Publicity and stakeholder consultation is one of the most important ways of achieving the above.

2. The Electricity Act provides for several principles such as advertising an application for a Licence and inviting affected parties to lodge any objections.

The Public Hearing is the last opportunity for those stakeholders who want to be heard to present their views.

3. The importance of getting the process correct right from the onset since electricity generation is a long-term commitment on both the side of the investor and the country.

Further details are in the presentation annex **D**

TECHNICAL INTERPRETATION / REQUIREMENTS FROM THE PROJECT:

Eng. Patrick Kakaire, Manager Technical Regulation – ERA in his presentation explained ERA’s mandate in respect to developing and enforcing Sector standards. He highlighted the Codes that govern performance of this activity as follows:

1. The Primary Grid Code Regulations, 2003.
2. The Safety Grid Code Regulations, 2003.
3. The Quality Of Service Regulations, 2003.

Highlighting what the investors should expect concluded the presentation as below: -

- a. Subscribing to ERA’s reporting mechanisms and schedules.
- b. Inspection of premises.
- c. Conducting investigations as need arises.

Details of this presentation are in annex **E**

FINANCIAL AND ECONOMIC INTERPRETATION OF THE PROJECT:

Mr. Patrick Mwesige, Manager Financial Services, ERA gave a synopsis of what the public should be looking out for from the project proponents during their presentations.

Issues highlighted to provoke discussion from the audience included: -

1. The cost of the project vis-à-vis increased supply.
2. Cost of production from a by-product whose cost is economically nil or negative.
3. Time period when proposed extra power is to be sold visa-a-vi demand at that time.
4. Costs of investing in the distribution network, and the technology visa-a-vi the proposed tariff.
5. Who meets all the costs highlighted above?
6. Proportion of funding i.e. how much is equity and how much is Government?
7. Beneficiaries of project especially with the component of Government funding?
8. The tariff from this project compared to other existing operators.

Details of the presentation attached and marked annex **F**

THE KAKIRA SUGAR WORKS PROJECT OVERVIEW.

This presentation gave an overview of the entire sugar works production right from inception, expansion and through to present day status. The co-generation project was highlighted as comprising of the following: -

1. Increase in cane supply – **agricultural development**,
2. Increase in sugar production – **factory expansion**,
3. Optimal utilization of resources – **co-generation** of steam and power.

Highlights Of The Presentation:

- i. Presently generation is for own use between 3.5 – 4.0 MW of electricity from Bagasse.
- ii. KWS proposes to increase generation to 14 – 15MW in a co-generation arrangement.
- iii. This project is to provide up to 7MW of power for 6 hours during the peak period only i.e. 6pm till midnight.
- iv. As per Power Purchase Agreement between KWS, UETCL & UEDCL of July 2003: -
 - Kakira will provide power to UETCL for onward distribution by UEDCL on a **take-or-pay** basis during peak hours.
 - In year 1 5MW.
 - In year 2 onwards 6MW.
 - KWS can provide additional power on Energy basis.
- v. Funding: - Global Environmental Facility ‘GEF’ will provide a grant of US\$3.3 million to reward petroleum saving and to compensate for project cost for idle capacity.
 - World Bank refinancing of US\$8 million (through Bank of Uganda) of PFI loans.
- vi. The project would be on-stream by 2006.

Details of presentation are contained in annex G

MAJOR STAKEHOLDERS REMARKS & QUESTIONS: RESPONSES & ANSWERS.

1. National Environmental and Management Authority (NEMA) – **Mr. Waiswa Ayazika:**
 - He noted that for any projects to be implemented, it requires to undertake an Environmental Impact Assessment (EIA) and go through NEMA for approval.
 - KWS Ltd had submitted their EIA to NEMA on 8th December 2003 and a lot of consultation had been carried out on the proposed project documents.
 - The review process had been finalized and a decision would be communicated in the near future.

2. Uganda Electricity Transmission Company Limited (UETCL) – **Mr. Muganga.**
 - Highlighted the present shortfall of electricity 30 – 40 MW that ends up with power rationing at peak hours.
 - Welcomed addition capacity during this period.
 - Highlighted the take-or-pay deal with KWS Ltd stipulating that in year 1, 5MW is to be provided by KWS Ltd, while subsequent years will have 6MW.

3. Uganda Electricity distribution Company Limited (UEDCL) – **Eng. Balaba.**
 - Welcomed additional capacity by KWS Ltd after compliance with other installations had been met.
 - Highlighted concern of increased load shedding due to insufficient supply of power during peak time.

4. Rural Electrification Agency (REA) – **Mr. Godffery Turyahikayo.**
 - Highlighted that KWS Ltd is REA's fast track project initiated as a flag ship for other rural embedded generators.
 - The subsidy to be obtained of US\$ 3.3 million equated to 50% of the cost of the capacity to be received during the peak hour's i.e. maximum 7MW.

5. **Irene Zikusoka** – Consumer Committee Representative for Kampala region.
 - Concerned that the project beneficiaries may not be the actual affected parties i.e. beneficiaries can easily remain towns outside Kampala but not rural communities.
 - Wanted to know where else Bagasse as a by-product has been utilized, tested and found successful what and how the communities on the peripheries of KWS Ltd estate stand to benefit considering that they have no access to power to-date.
 - What social responsibility projects are tangibly on the ground?

Responses:

- KWS Ltd is not in the business of providing power to households. Their business is generation because that is where their expertise is.

- Power generation from Bagasse has been tried, tested and found successful in most sugar cane growing countries but not sugar beet i.e. India, Mauritius, and Hawaii. In Africa, both Tanzania and Ethiopia are keen to try it out as well.
 - KWS Ltd on the whole has contributed tremendously in setting infrastructure like schools, and hospitals.
6. **Uganda Consumer Protection Association (UCPA)**
- Cautioned that ERA should brace up for the work ahead in order to keep up with the regulatory role.
 - Concerned about the provision of subsidies in such ventures, which clearly benefit very few people in the population.

Response:

- ERA is prepared and ready for the job.

7. **Deputy Mayor – Jinja District: -**

- Appreciated the Corporate Social Responsibility by KWS Ltd in Jinja Municipality.
- Concerned that the real target group did not show up because the language used during presentations is not only in English, which is not a mother tongue, but presentations are also too technical and could easily scare off people.
- Highlighted that in future, separate meetings are made for the district official, etc, and the actual village affected people.
- Keen to know whether projects of this nature generating power out of a by-product could attract district royalty?
- Commended ERA for their role especially in mediating during the long-standing royalties issue between district authorities and investors that had come to a successful conclusion.

Response:

- All points raised were noted and appreciated.
- Projects similar to this i.e. generation of Power from a by-product - bagasse do not attract district royalties. Royalties are paid strictly on dams according to Ugandan laws.

8. Deputy Mayor: queries

- i. Why is price of power so high compared to other companies in the same business of power generation?
- ii. Is it not that the precedence of allowing one generator charge highly is likely to reflect badly on others and commence a price war to the disadvantage of the consumers?
- iii. What kind of protection such investors receive to ensure they do business, and if contracts exist between UETCL and KWS Ltd are they pro-people?
- iv. What happens should a cheaper supply of power be obtained?

- v. Want competition on the distribution end of things so that consumers have a choice on whom to take on for use.
- vi. Why government has to subsidize private investments?

Responses:

- Prices of embedded generation tend to be high by nature – that is why subsidies are provided to keep the consumer tariff lower.
- Subsidies can be provided to either of the following: - to investors or to consumers. It's more price- reflective on the power tariff to provide subsidies to investors.
- KWS Ltd is protected in the deal and the deal is people-friendly. Besides, ERA would still look into details to ensure its people – oriented before providing a license.
- World Bank is utilized as a financing agency because financial institutions in Uganda tend to be short term yet power generation requires long-term undertaking in capital investment.
- Cost of electrifying rural areas is normally higher than in urban centers because of the scattered communities and their limited ability to pay. Subsidies are provided to willing investors to make the venture economically viable.

9. Uganda Consumer Protection Association:

- Concerned that documents like PPAs' are not available for public scrutiny on a matter that affects consumers.

Response:

- PPAs' have commercial secrets / confidential material and business concepts that competitors should not get hold of.
- For those documents that are public, they are available and people are free to read them at ERA and the district offices.

QUESTIONS FROM THE PUBLIC & RESPONSES.

10. Sunset worker:

- Wanted clarification on why 2 licencees' cannot be permitted to operate in one area.
- Whose responsibility it is if equipment is damaged by power supply?
- Investor protection

Response:

- The Law guides ERA in the execution of duties.

11. Local Leader – Butembe:

- What are the benefits for out growers who have no power?
- How will local people benefit from donating their land to the estate?

Response:

- Employment and steady incomes are tangible benefits to out growers.
- Out growers should appeal to UEDCL for network coverage because KWS Ltd does not distribute power.

12. John Berry – Eskom (Ug) Ltd:

- Project costs seem to be so high and will inevitably establish the precedence for higher tariffs.
- Why is recovery period for 15 years not extended to 20 years?
- Is the price quoted having a direct link to the sugar market or the normal country prices?
- What are the penalties for the take-or-pay deal for KWS Ltd?

Response:

- Penalties do exist even in a take-or pay scenario and will be triggered just like for other existing operators.
- Prices are determined by ERA and if they are indexed on sugar prices that index will be removed.

13. Lillian Sansa – Councilor: -

- What happens during the shut down period by the factory?

Response;

- Consumers resort to other service providers under UEDCL. KWS is not distributing but generating. The distributor will have alternatives from other generators.

14. Concerned Public:

- Why not create fertilizers from Bagasse?

Response:

- KWS Ltd is not an expert at fertilizers. Maybe as time goes on.

15. LC 3 Chairman – Budondo Sub County:

- Would like to hear form ERA if the investor has fulfilled all the necessary requirements?

Response:

- That is why the forum i.e. the public Hearing is taking place. A decision cannot be reached now but later after careful consideration of all issues raised during the course of the Public Hearing and elsewhere.

16. Cadre Nyanzi Abdul:

- Since agreements and PPAs' seem to have been signed already, the public seems to be wasting their time arguing about the project.

- Thought KWS Ltd power would be a relief and an alternative to UEDCL. But now realize the same power is to be distributed by the old inefficient UEDCL.

Response:

- ERA has the right to overturn anything that is not in the interest of the stakeholders. Public Hearings are not a waste of time.
- ERA cannot determine if KWS requires a licence until all the procedures have been duly followed.

CLOSING REMARKS:

The Chairman ERA, in his closing remarks commended participants for being candid and peaceful during the discussions. He highlighted that the Public Hearing is not meant to discourage investors neither is it meant to compromise on standards as had been witnessed during deliberations. He was glad that everyone was satisfied and that concerns were raised and an opportunity provided to all affected to air their views.

The chairman noted that the actual affected grass root communities were absent and vowed to improve ERA's method of mobilization in addition to hosting the event at a friendlier venue for the rural communities i.e. in their villages.

Chairman also called on the public to be more vigilant in reading public project documents when called upon by ERA.