

REPORT OF THE AUDITOR-GENERAL ON NYAHURURU WATER AND SANITATION COMPANY LIMITED FOR THE YEAR ENDED 30 JUNE, 2023

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines, and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient, and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Nyahururu Water and Sanitation Company Limited set out on pages 1 to 77, which comprise of the statement of financial position as at 30 June, 2023, and the statement of profit or loss and other comprehensive income, statement of changes in equity, statement of cash flows and the statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of Nyahururu Water and Sanitation Company Limited as at 30 June, 2023, and of its financial performance and its cash flows for the year then ended, in accordance with the International Financial Reporting Standards (IFRS) and comply with the Companies Act, 2015, the Water Act, 2016 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1.0 Material Uncertainty Related to Going Concern

As previously reported, the statement of financial position reflects current assets and liabilities of Kshs.75,030,502 and Kshs.133,304,348 respectively, resulting in negative working capital of Kshs.58,273,846. Further, the Company's statement of Profit or Loss and other comprehensive income for the year ended 30 June, 2023 reflects Kshs.260,927,273 in respect to total revenue and Kshs.268,365,958 in respect to total expenditure resulting in an operating loss of Kshs.7,438,685. The deficit has reduced the retained earnings from Kshs.427,126 on 30 June, 2022 to a negative of Kshs.7,011,559 as of 30 June, 2023 as reflected in the statement of financial position. Therefore, the Company may be unable to meet its financial obligations as and when they fall due and may, therefore, be technically insolvent on the basis of the negative working capital position.

In the circumstances, the sustainability of services delivery and the going concern as a water company was in doubt.

2.0 Inaccuracy of Customer Deposits Account

The statement of financial position and Note 28 to the financial statement reflects Kshs.34,894,945 in respect to customer deposits, which includes Kshs.5,660,547 in respect to customer deposits received during in the year under review. However, the customer deposit account reflects a balance of Kshs.2,026,840 in respect to additional deposit during the year resulting to unexplained variance of Kshs.3,633,707.

Further, records provided for audit review show that the board decided to build up the customer deposit account by authorizing a standing order of Kshs.2,000,000 to be deposited into this account every financial year until the balance in the account is equal to the corresponding balance reported in the financial statements. However, there was no evidence to show that Kshs.2,000,000 was banked into the customer deposits account in the year under review.

In the circumstances, the accuracy of the customer deposits of Kshs.34,894,945 could not be confirmed.

3.0 Unrecognized Property, Plant and Equipment

As previously reported, the statement of financial position reflects property, plant and equipment balance of Kshs.207,875,589. However, the ownership documents for four (4)

motor vehicles of unknown value granted by the Northern Water Services Board and the County Government of Laikipia had not been transferred and registered in the name of the water company.

In the circumstances, the accuracy and completeness of the property, plant, and equipment balance of Kshs.207,875,589 could not be confirmed.

4.0 Un-utilized and Idle Digital Water Meters

The statement of financial position and Note 19 to the financial statements reflects Kshs.10,276,239 in respect to inventories, which excludes unvalued 1,000 digital water meters of 3/4 inches donated to the company in the year 2019 by a Non-Governmental organization. However, records pertaining to the donation of the digital meters together with their value was not provided for audit review.

Available information and a physical count of the digital meters revealed that 400 meters were in the store while 600 digital meters had been modified and issued out and installed to customers premises.

In addition, the Company procured three quarter ($\frac{3}{4}$) inches meters during the year under review when indeed there were useable/convertible $\frac{3}{4}$ inches meters lying idle in the stores. The value of the inventories has therefore been understated by omitting the value of the 1,000 $\frac{3}{4}$ inches digital water meters.

In the circumstances, the accuracy of the inventories reported in the financial statements could not be ascertained.

5.0 Trade and Other Receivables

Note 20 (a) to the financial statement reflects Kshs.63,520,822 in respect to total trade receivables, which includes Kshs.33,104,743 (or 52%) in respect to customers debts which have remained uncollected for a period of over 120 days. Management did not provide evidence on follow up on the outstanding debtors, casting doubt on the ability of the company to recover all the outstanding debts. The recoverability of the long outstanding debts is therefore doubtful.

In the circumstances, the recoverability of the Kshs.33,104,743 reported as debts could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Nyahururu Water and Sanitation Company Limited Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2023 reflects final receipts budget and actual on a comparable basis of Kshs.349,388,235 and Kshs.267,547,596, respectively resulting to revenue under realization Kshs.81,840,639 or 23% of the budget. Similarly, the Company expended Kshs.310,778,788 against an approved expenditure budget of Kshs.349,301,907, resulting to an under-expenditure of Kshs.38,523,119 or 11% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

My opinion is not modified in respect of this matter.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, management had not resolved all the issues raised in the previous year's audit report. There was no evidence showing that the issues were discussed and resolved by the relevant oversight bodies.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Excess Non-Revenue Water

The statement of profit or loss and other comprehensive income and Note 6 to the financial statements reflects Kshs.221,965,326 in respect to operating revenue which

includes Kshs.160,913,245 in respect to revenue from the sale of water. Information available revealed that the Company produced 3,241,297 cubic meters (M³) of water out of which only 2,007,969 cubic meters ((M³) were billed to the customers. The balance of 1,233.328 cubic meters or approximately 38% of the total volume of water produced, therefore, represents non-Revenue water (NRW) which was 13% over and above the allowable loss of 25% in accordance with schedule E of Water Service Regulatory Board (WASREB) guidelines. The significant level of Non-Revenue Water could be an indication of inefficiency and ineffectiveness in the use of public and water resources, which may negatively impact on the Company's profitability and its ability to sustain services.

In the circumstances, Management was in breach of the WASREB guidelines.

2.0 Non-Compliance with the Law on Fiscal Responsibility on Wage Bill

As previously reported, the statement of profit or loss and other comprehensive income and Note 9 to the financial statements reflects Kshs.144,228,248 in respect to expenditure on staff costs which was equivalent to 65% of the total operating revenue of Kshs.221,965,326. The acceptable benchmark for a large entity according to the WASREB guidelines table 3.2 is less than 30%. Nyahururu Water and Sanitation Company Ltd was 35% over and above the industrial benchmark. The excess staff costs may negatively impact on the Company's profitability and sustainability of services if measures are not put in place to contain the cost within the acceptable level.

In the circumstances, Management was in breach of the guidelines.

3.0 Non-remittance of Revenue Collected

The statement of comparison of budget and actual amounts for the period ended 30 June, 2023 reflect Kshs.8,200,000 and Kshs.6,620,323 in respect to budgeted revenue from Conservancy and actual receipt respectively. This represented revenue collected by the water company for garbage collection on behalf of the County Government. The water company was supposed to retain 2% of the revenue collected and remit the balance to the County Government of Laikipia. However, the Company remitted only Kshs.2,172,918 of out of the Kshs.6,620,323 conservancy revenue collected in the year under review, resulting to unremitted conservancy revenue collection of Kshs.4,447,405. The water company spent the conservancy revenue without the authority from the County Government. Further, as reflected in Note 27 to the financial statement, the water company reported unremitted conservancy revenue of Kshs.10,383,096 payable to the County Government of Laikipia (Conservancy).

In addition, the agreement for conservancy revenue collection was entered between the water company and the defunct Municipal Council of Nyahururu which was dated 19 September, 2003 on garbage collection for a conservancy fee. However, this agreement has not been renewed to reflect the reality on the ground and to incorporate the policies of County Government of Laikipia. The continued collection of conservancy revenue by the water company based on 'obsolete' agreement conflicts with the mandate of Laikipia county revenue board which is mandated by law to collect and account for all revenues for the county government of Laikipia.

In the circumstances, Management was in breach of the agreement.

4.0 Audit Fee Arrears

Note 27 to the financial statement reflects Kshs.98,409,403 in respect to trade and other payables which includes Kshs.43,233,597 charged under fees and levies. Included in the balance is an amount of Kshs.2,380,000 in respect to audit fees payable to the Office of the Auditor General. The fees arrears relate to audit fees for the previous years. Therefore, Management of the Company did not comply with Section 41(1) of the Public Audit Act, 2015 which empowers the Auditor General to charge audit fees at the rates prescribed and the same paid by the audited entities.

In the circumstances, Management was in breach of the law.

5.0 Payables Not Taken as the First Charge

As previously reported, Note 27 to the financial statements reflects Kshs.89,812,707 in respect to trade and other payables which includes Kshs.26,709,033 in respect to trade and other payables which has been outstanding for more than three year contrary to the Treasury circular No.7/2021 paragraph 22 which requires accounting officers to ensure that all payments emanating from the previous periods are treated as the first charge against the current financial year budgetary allocation before entering into new commitments.

In the circumstances, Management was in breach of the law.

6.0 Unbalanced Budget

The statement of comparison of budget and actual amounts for the year ended 30 June, 2023 reflects Kshs.349,388,235 in respect to the final revenue budget against final expenditure budget of Kshs.349,301,907 resulting in a budget surplus of Kshs.86,328. contrary to Section 31(c) of the Public Finance Management (County Government) regulations, 2015 which provides that budgeted revenue and expenditure appropriations shall be balanced.

In the circumstances, Management was in breach of the law.

7.0 Lack of Diversity in Staff Ethnicity

As reported in the previous year, review of human resource records revealed that during the year under review, the Company had a total of one hundred and fifty-six (156) employees out of which one hundred and forty-two (142) or ninety one percent (91%) were from the dominant ethnic community, with only about nine percent (9%) being from non-dominant ethnic community. This was contrary to Section 65(e) of the County Governments Act, 2012 which requires the County Governments 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.

In the circumstances, Management was in breach of the law.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

Basis for Conclusion

Unauthorized Spending of Customer Deposits

As previously reported, Note 28(b) to the financial statements reflects Kshs.34,894,945 in respect to customer deposits. However, the customers deposit bank account reflects a balance of Kshs.6,789,743 resulting to a variance of Kshs.28,105,202. The variance constituted funds spent by Management without authority from the Company's Board of Directors and which had not been refunded to the customer deposits account as of 30 June, 2023.

In the circumstances, the ability of the Company to refund the water deposits to the consumers as and when demanded could not be ascertained.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether processes and systems of internal controls, risk management and governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

As required by the Kenyan Companies Act, 2015, I report based on the audit, that:

- (i) I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of my audit.
- (ii) In my opinion, proper books of account have been kept by the Company, so far as appears from the examination of those books.

- (iii) The Company's statement of financial position and statement of profit or loss and other comprehensive income agree with books of account.

Responsibilities of Management and the Board of Directors

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards and the requirements of the Companies Act, 2015 and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the ability of the Company to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless Management is aware of the intention to liquidate the Company or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions, and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

The Board of Directors is responsible for overseeing the Company's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken based on these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by Management.
- Conclude on the appropriateness of Management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability of the Company to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence

obtained up to the date of my audit report. However, future events or conditions may cause the Company to cease as a going concern.

- Evaluate the overall presentation, structure, and content of the financial statements, including the disclosures and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Company to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

13 February, 2024