



COLONY AND PROTECTORATE OF KENYA

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BULK SUPPLY OF  
ELECTRICITY FROM UGANDA

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## BULK SUPPLY OF ELECTRICITY FROM UGANDA

### *Introduction*

1. Present estimates of future demand for electricity in Kenya indicate that the existing hydro-electric and thermal reserves of the East African Power and Lighting Co., Ltd., with some additional plant, should be sufficient to meet foreseeable demands until the beginning of 1958. The development of further hydro-electric power in Kenya at Seven Forks on the Tana River would involve very heavy capital expenditure which would not at this stage be justified by estimates of future demands for electric power, although such development or its equivalent is likely to be necessary at a later date. The provision of additional major thermal generating capacity would entail heavy capital and operating expenditure with a resultant high price for electricity to the consumer.

2. A large hydro-electric generating station has been constructed at the Owen Falls in Uganda and a bulk supply of electricity from Uganda is available and will be more economical than the installation of additional major thermal generating plant in Kenya.

3. It is therefore considered to be in the best interests of the consumer in Kenya to take a bulk supply of electricity from Uganda to meet estimated needs from 1958 onwards, without prejudice to the possibility of further hydro-electric development within Kenya when increased demand and the limits of supply from sources then operating warrant such a course. In approving the arrangements for a bulk supply from Uganda, the Government has had constantly in mind the urgent need to increase supply-capacity by 1958 if electricity shortages are to be avoided.

4. To achieve the most economic operation of electricity supplies, it is considered essential that the bulk supply from Uganda should be integrated with Kenya's own major hydro-electric installations, both existing and under construction, and that the bulk supply from both sources should be operated by one authority. This authority will be the Kenya Power Co., Ltd., further details of which are given in subsequent paragraphs.

5. If the Colony's financial position had so permitted, the Government would have preferred to form a public corporation and to provide it with the necessary finance to enable it to execute the necessary works for the Uganda supply and to take over existing bulk supply installations, thus placing the bulk supply, as distinct from the distribution, of electricity under national control. The present financial position of the Colony, however, precludes such action, though it may well be that the needs of the Colony in the future will require that electricity supplies be placed under national ownership and control if and when the conditions and finances of the Colony so warrant and permit. The implementation and the execution of this policy would depend on the enactment by the legislature of the necessary legislation, which would be introduced if and when the Government of the day decided, in its unfettered discretion, to initiate the legislative processes necessary to achieve national ownership and control.

### *Formation of the Kenya Power Co., Ltd.*

6. The Kenya Power Co., Ltd., was formed early in 1954 so that it could apply to Government for a Bulk Supply Licence. The company has concluded a commercial agreement with the Uganda Electricity Board covering the terms on which a bulk supply of electricity is to be made available. The company has a nominal share capital of £100 in £1 shares, to be held as to one-third by the

Kenya Government, as to one-third by the East African Power and Lighting Co., Ltd., and as to one-third by Power Securities Corporation, Ltd. The capital in respect of the various works to be undertaken will be raised by the issue of debentures which will constitute a charge on the undertaking and assets of the company.

7. The formation of the company in this way makes it possible to finance the bulk supply and all major local generating plant on a minimum interest basis. The Bulk Supply Licence provides against an accumulation of reserves of profits beyond depreciation, a small equalization reserve and such provision as is necessary to meet the interest requirements of its fixed interest stock and the eventual redemption of that stock. The formation of a separate company is also a very considerable convenience in dealing with supply to a large number of separately licensed distribution areas.

8. The Kenya Power Co., Ltd., in June, 1954, stated its intention of applying for a Bulk Supply Licence and, after due advertisement, submitted its formal application in September of that year. The application has been thoroughly investigated by Government and due account has been taken of the objections which have been received. It has not proved possible to accept all those representations made, but some have been provided for either in the licence or in a Shareholding and Licensing Agreement between the participating interests. The licence, known as Bulk Supply Licence No. 2, has now been issued to the Kenya Power Co., Ltd.

#### *Terms and Conditions of the Issue of the Licence*

9. The Government has granted the Bulk Supply Licence to the Kenya Power Co., Ltd., subject to the following terms and conditions, the acceptance of which has been notified by the company prior to the grant of the licence—

- (a) that if the licence is not renewed at the end of the 50-year licensing period, or if it is revoked before the expiry of the full licence period, all assets of the company at that time existing will become the property of the Government, to be applied, in whatever way the Government may see fit, for the benefit of the consumer; in order to ensure adequate maintenance and renewals in the later years of the licence period, a review of the position will be carried out after 35 years, after which purchases (including renewals and replacements) and disposals of assets and other major transactions will be subject to the approval and direction of the Government through its nominees on the Board of the Company;
- (b) that if the licence is not renewed, or if it is revoked before the expiry of the full licence period, the shares held in the Kenya Power Co., Ltd., by Power Securities Corporation, Ltd., and the East African Power and Lighting Co., Ltd., respectively shall thereupon be transferred at par to the Government; as a result of this share transfer the Government will become sole owner of the entire share capital of the company and of its undertaking and all its property and assets, without further payment, but with acceptance of course by the Government of liability for any outstanding debentures and for all other legal liabilities and commitments of the company;
- (c) that if the licence is renewed at the end of the licence period, the foregoing provisions for the transfer of shares, etc., to the Government will take effect at the end of the period of renewal;
- (d) that Government shall nominate two of the six directors who will constitute the Board of the Kenya Power Co., Ltd., and that one of the remaining four directors shall be the Government's nominee on the Board of the East African Power and Lighting Co., Ltd.;

- (e) that the Government shall have the right to require the licensee to supply power at economic rates to any licensed distributor whose area of supply is contiguous or adjacent to the main transmission lines;
- (f) that the terms and conditions of all debenture issues, loans and other forms of permanent finance made or raised by the Kenya Power Co., Ltd., whether for initial or future capital requirements, shall be subject to prior Government approval.

#### *Construction Works*

10. The engineering and construction work will be done by Messrs. Balfour Beatty & Co., Ltd., in accordance with the terms of a direct contract negotiated between the Kenya Power Co., Ltd., and that company. It was represented to the Government that the work should be the subject of a public invitation to tender, but this view was not accepted for the following reasons:—

- (a) Messrs. Balfour Beatty & Co., Ltd., have carried out the survey and investigations; these have been endorsed and approved by independent consultants, namely Messrs. Merz & McLennan; to bring in new consultants or contractors at this stage might result in increasing the total cost of the works, and would undoubtedly cause delay.
- (b) As Messrs. Balfour Beatty & Co., Ltd., are connected with Power Securities Corporation, Ltd., and through that Corporation with the Kenya Power Co., Ltd., they will, as contractors, have a compelling interest in the successful completion of the work.
- (c) Messrs. Balfour Beatty & Co., Ltd., have already called for and obtained competitive quotations for 60 per cent of the equipment required; this not only introduces an element of competition in the price but is important to the time factor.
- (d) In addition to the present programme for the installation of further thermal generating plant to meet increases in demand, the delay involved in an open invitation to tender would be a further 6 to 9 months, which would make it necessary to install as an interim measure further plant costing at least £350,000, with a consequential increase in the price of power to the consumer.
- (e) Rising costs of labour and materials in Kenya and elsewhere are leading contractors to cover themselves by quoting either on a cost-plus basis or at prices affording a very large safety margin; invitations to tender would not, therefore, necessarily result in the most economic contract or even a fixed price.

#### *The Possibility of Nationalization of Bulk Supply*

11. Since the Kenya Power Co., Ltd., is a public utility undertaking financed on a minimum interest basis; since its initial working capital will be raised by loans secured by a debenture or debentures charging its undertaking and assets; since the payment of interest on, and repayment of capital of, such loans will be effected from moneys to be derived from charges made directly to distributors and indirectly to consumers for the supply of electricity; and since any further capital or other moneys which may be required by the company in or for the operation of its undertaking will be derived from the same or similar sources, that is to say, lenders on debenture-security and/or charges for electricity supplies, the Government gives notice of its policy and intention, as at present advised, if nationalization of the bulk supply of electricity and/or of the undertaking and assets of the company should be effected in the future, to safeguard the rights

and interests of debenture-holders then outstanding in regard to both the payment of interest and the redemption of capital, to the intent that such debenture-holders shall suffer no loss or detriment without just and adequate compensation, but to concede no right to or eligibility for compensation to the company, or to any participating interest in the company, in respect of any goodwill, licence, assets or other property or rights in property belonging to or forming part of the undertaking or assets of the company, save only to the extent of the nominal or par value of shares in the company acquired on such nationalization.

*Documents*

12. The following documents have been drawn up in connexion with the generation and transmission of bulk supplies of electricity and are available for study in the Legislative Council Library:—

(i) Bulk Supply Licence No. 2.

(ii) The Kenya Power Co., Ltd. (Shareholding and Licensing) Agreement, 1955.

Nairobi,

7th June, 1955.