

A young girl with dark hair, wearing a light-colored shirt with dark polka dots, is leaning over a public water tap. She is holding a bright yellow bucket under the running water. The tap is mounted on a wooden post. The background shows green foliage. The image is framed by a large, stylized blue and red graphic element that curves around the left and bottom edges.

GUIDELINE ON CLUSTERING OF WATER SERVICE PROVIDERS

**August
2018**

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1 INTRODUCTION

The Constitution of Kenya (2010) created two levels of government, the national government and county governments. As per the fourth schedule on distribution of functions, the national government was assigned ownership, use and regulation of water resources, consumer protection and national public works. The county governments were assigned water services provision, sanitation, catchment management and county public works.

The Water Act 2016 reoriented the water sector to the Constitution of Kenya and created a new legal and institutional framework which strengthens regulation on national level and at the same time transferred a number of executive functions to the county governments.

1.1 Legal obligations of county governments

Under the Water Act 2016, the county governments have been assigned the responsibility for efficient and economical provision of water services so as to fulfil the rights to water.

Specifically, county governments are supposed to take care of

- **Asset Development:** Establish medium and long-term investment plans which shall be aggregated by the Water Works Development Agency (WWDA) into the national water sector investment plans.
- **Asset Management:** Form water service providers (utilities) based on the criteria set by the Water Services Regulatory Board (WASREB) and with the objective to operate and maintain the county owned water and sewerage infrastructure.

In this context county governments are obliged to review the efficiency and commercial viability of their existing licensed water utilities which previously operated as agents of Water Services Boards (WSBs) through a Service Provision Agreement (SPA). Further, section 77 of the Water Act 2016 requires county government to establish water service providers complying with the standards for commercial viability as set out by the Regulatory Board. One of the key measures at the disposal of county governments is to embrace clustering of existing utilities to improve their commercial viability to enable them deliver services efficiently and effectively.

In order to secure commercially viable providers, clustering shall be restricted to urban water service providers as specified by the regulator. Rural and communal water supply systems have to be managed independently by the respective county department in charge of water and sanitation.

1.2 Legal Obligations of the Regulator

Under the Water Act 2016 the Water Services Regulatory Board (WASREB) has been mandated to set rules and enforce standards that guide the sector towards ensuring that consumers are protected and have access to efficient, adequate, affordable and sustainable services. WASREB sets the required standards in water and sanitation services and licenses water utilities which fulfills the requirements. WASREB additionally monitors and reports on the performance of the licensed water utilities.

1.3 Purpose of this Guideline

The purpose of this guideline is to:

- Promote clustering of urban water service providers to increase effective and efficient provision of water services
- Create awareness among the county governments, water service providers, any other water sector institutions and the public for the need of clustering of urban water service providers
- Ensure that county governments and water service providers follow a systematic way toward a viable clustered urban water service provider
- Provide guidance in the process of clustering urban water service providers
- Define the roles and responsibilities of all involved parties

1.4 Initiation of Clustering

Clustering of water service providers is guided by section 97 of the Water Act 2016. The licensees, the county government, consumers and the Water Services Regulatory Board constitute the main consultative organs on whether two or more water service providers should be clustered or not.

1.4.1 County Government(s)

The process of clustering can be initiated by the owner, the county or in case of a cross-county clustering by the involved counties. The counties are the sole shareholder of the water service providers. The County Executive Committee Member (CECM) of water is the legal person in charge of instructing a cluster of county-owned water utilities.

In regard to a proposed clustering the county government(s) needs to consult with the regulator who can permit or deny the application.

1.4.2 The Water Services Regulatory Board (Wasreb)

For the purpose of securing commercially viable water services, WASREB may, by notice in the Gazette, order a clustering as per section 97(2) of the Water Act 2016. The legal person in charge of instructing a cluster to take place is in this case the Chief Executive Officer (CEO) of WASREB. On application, WASREB can permit either the joint provision or the transfer of the service provision.

WASREB will not instruct any clustering without consultation of the owner/shareholder

1.5 Definition of Clustering

In the context of devolution in water service provision and the spirit and letter of article 189(2) of the CoK (2010), the term “clustering” shall be generally understood as the grouping of a number of water supply and sewerage services within a county or cross counties under one statutory/ autonomous body in order to achieve commercial viability. This may take the form of either:

- (1) Joint provision by two or more licensed water utilities under one license;
- (2) Transfer of water service from one licensed water service providers to another licensed water service providers.

1.6 Operationalization of Clustering

1.6.1: Factors to be considered in clustering

The factors to be considered in making a clustering decision are the number of systems to be combined, potential viability and a strong orientation towards serving the underserved (pro-poor orientation). Other factors include existence of a potentially viable nucleus, geographical proximity, staffing productivity and skills mix.

1.6.2: Options available

Two options for the operationalization of a clustering process might be considered.

Option 1:

The best performing water service provider takes over the responsibility for the service area of the lower performing water service providers or water service providers. The lower performing water service provider(s) will be dissolved by a resolution of an Annual General Meeting (AGM) or Extraordinary General Meeting (EGM). The additional service areas will be managed as cost centers during the transitional time until:

- HR payrolls and Information Systems have been harmonized
- A joint Tariff has been approved
- Pre-defined targets in revenue and technical infrastructure development have been achieved

Option 2:

All water service providers be clustered to a single entity.

2 Rationale of a Clustering

Kenya's population stands in 2016 at 46 million, while 21 million live currently in areas served by 91 regulated water service providers. More than 8 million people live in urban low income areas that do not have appropriate access to water and sanitation services. Despite the trend of water coverage showing growth since the reforms of 2002, water coverage has only been at 55% and sewerage coverage at 16% in 2017 (IMPACT Report 10). It is projected that by year 2030, the population in the service areas will increase to 45 million and the growth in urban low income areas will be higher than the general urbanization growth.

Kenya targets to achieve universal access to safe water and basic sanitation by 2030. This requires an increased investment for infrastructural development and rehabilitation. According to the National Water Master Plan 2030 (NWMP 2030), the total cost of investment and rehabilitation needed in water supply and sewerage is estimated at Ksh. 1.77 trillion. However, the available government budget is Ksh 592.4 billion. This leaves a shortfall of about Ksh. 1.2 trillion. This gap can be reduced by increasing sector efficiency and maximizing consumer contributions through tariffs, establishing financially sustainable water service providers with capacity to tap into blended financing.

Non-revenue water stands at an unacceptable level of 42% by 2017 (IMPACT 10). Considering the sector benchmark of NRW levels of below 25%, the current NRW level of 42% translates to a financial loss of Ksh. 7.8 billion to the sector annually. Therefore the continued underperformance in NRW is not only a direct expense to the customers but also contradicts Kenya's aspiration of moving towards higher living standards. Apart from wasting funds which could have been used to increase access and improve service delivery, the foregoing situation also threatens the financial sustainability of the water service providers. Hence, counties that are providing subsidies to water service providers with high levels of NRW are supporting mismanagement at the expense of utilizing the resources for infrastructure development.

Cost coverage of Operation and Maintenance for majority of the utilities is on an unacceptable level of less than 100% and indicates that the water service providers are not able to cover their running costs fully (IMPACT 10). O+M cost coverage is critical to the performance of a water service provider as it is a first step towards full cost coverage. It ensures long term financial sustainability. A water service provider is estimated to have reached full cost coverage when it reaches above 150% O+M cost coverage. At this level, a water service provider is able to meet its O+M costs, service debt and renew its assets. The lack of cost coverage results from lack of justified tariffs or failure to adhere to the approved budget ceilings set in the tariff or both. The continued decline in cost coverage is contrary to the sector aspiration towards self-financing.

Number of connections: Many of the 88 licensed water service providers are too small to be viable. On average, the very large water companies with more than 35,000 connections have an O+M cost coverage of 106%, while the small companies with less than 5,000 connections have a cost coverage of 76% only leading to a big financial gap. Due to insufficient economies of scale they cannot even ensure adequate operations and maintenance without subsidies. Also they lack professional capacity due to their inability to attract and retain the same. At the same time, larger water service providers, which exhibit economies of scale, show a clear trend towards commercial viability and financial sustainability.

A correlation of the O+M cost coverage and the number of connections indicate that based on a minimum number of connections of 16,000, a water company is likely to be able to achieve commercial viability (Fig.1). Therefore, WASREB sets the sector benchmark at 20,000 connections considering the higher number of dormant connections. It is important to note that larger companies are in general more efficient, but size is not the only determinant for a successful company.

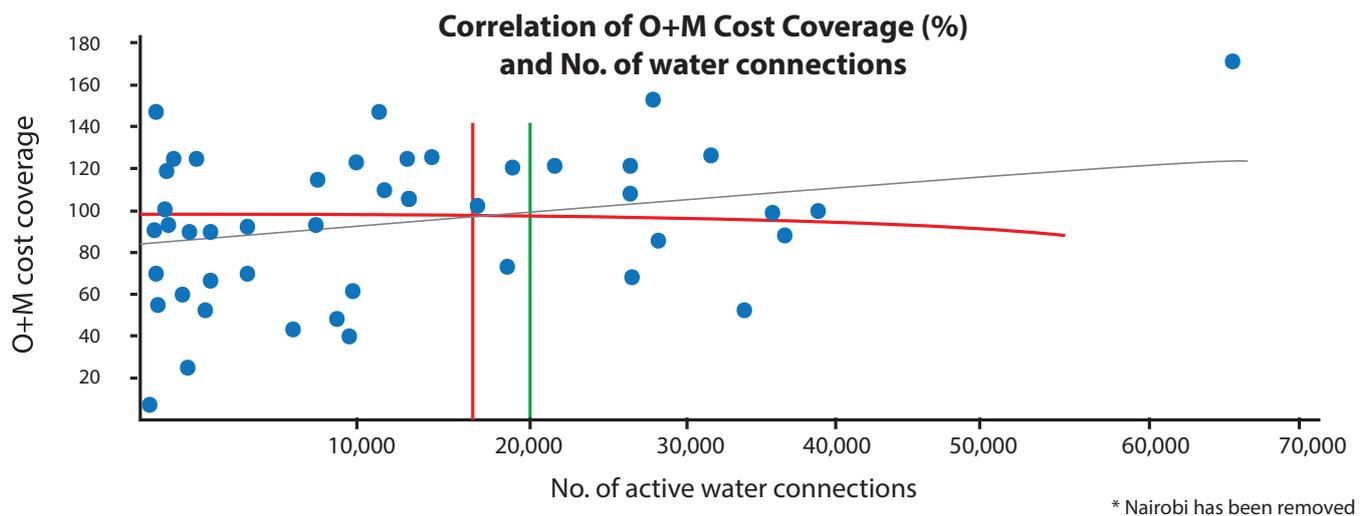


Figure 1: Correlation of O+M Cost coverage (%) and number of active water connections (IMPACT 10)

Compliance with Standards of Commercial Viability

The formation of a commercially viable and financially sustainable water service provider is an important prerequisite of a successful clustering. In the Water Act 2016 the task of defining the standards of commercial viability have been assigned to WASREB as specified under section 77(2) and section 86(2).

Commercially viable and financially sustainable water service providers can ensure efficient provision of water services so as to fulfil the rights to water. In this regard the formation of sustainable companies that can naturally enjoy economies of scale is highly encouraged by WASREB.

Characteristics of a Commercially Viable Company

- Have a consumer base of an adequate size and be consumer focused;
- Be commercially focused and managed with the aid of a comprehensive management information system;
- Incorporate a mixed capability/status of existing utilities;
- Be using the private sector for service provision where appropriate;
- Have all supporting service providers (and consumers) properly contracted;
- Be able to accommodate further urban areas in the future, if required;
- Be a good employer from a human resource management and development perspective.
- Have the minimum number of staff for the number of consumers being serviced; and
- Have appropriately qualified staff, each with a clear job description.

In the long term, a clustered and thereby larger company

- Is more attractive for large investment projects i.e. donor funding
- Is able to reduce the costs per connection (i.e. O&M, staff, administration)
- Takes advantages of aligned management structures and processes
- Is able to cover full costs including O&M, debt and infrastructure development
- Is able to extend their services to the underserved and to improve services for the benefit of all.
- Is more likely attractive to better qualified senior personnel to enhance capacities and better operational performance.

It is recommended that an already viable core water company shall be the driver of a clustering. Destabilization of a viable water service provider during clustering with one or more non-viable companies shall be avoided. It is not the sole role of the viable company to use its revenue for subsidizing the non-viable water service providers.

Rather it is the task of the viable company as the core driver of change to ensure transfer of knowledge and to introduce pending reforms in the non-viable companies.

In this regard regional management with own cost monitoring during a transitional time can be taken into consideration with the objective to strengthen the capacities of the non-viable regions.

Essential steps for achieving commercial viability of a clustered company are:

- Joint knowledge management and capacity building
- Joint centralized management information system with a regional management function
- Definition of performance related targets with timelines
- Strict monitoring of revenue collection for each regional management
- Joint financing plan
- Investment planning in close cooperation with the county government(s)
- Harmonization of HR payrolls, commercial, financial and technical operations under one management
- One tariff structure in close cooperation with WASREB

The formation of a clustered company requires an in-depth viability assessment and evaluation as a basis for decision making. A cluster of two or more non-viable companies will not lead to a viable company only because of a clustering. The success does not come only with the increase in number of connections.

3 Induction of a Cluster Water Service Provider

In the Kenyan water sector clustering of water utilities will follow a standard process to ensure

- Viability of the clustered company
- Political goodwill
- Legal protection
- Smooth implementation

Any clustering decision shall be based on a technical and economic assessment rather than serve political objectives.



It is recommended to carry out a situational analysis followed by a decision making phase. The agreed option shall be legally backstopped by a policy before the constitution of the new water service provider takes place.

County governments are advised to follow the process recommended by WASREB as envisaged under section 97 of the Water Act 2016.

3.1 Conceptual Phase

The conceptual phase shall be interpreted as the phase in which the decision makers principally have to;

- decide whether a clustering makes sense
- agree which type of clustering is suitable
- define the framework of a planned clustering (conditions, timelines, etc.)

In this context the County Executive Committee Member (CECM) in charge of water affairs shall appoint an advisory committee which is accepted by all stakeholders involved and which oversees the entire clustering process.

An advisory committee is mostly required during the initiation of a clustering and may be dissolved once the new Board of Directors is in place.

The following individuals are proposed to support the CECM:

1. Chairperson of the water committee of the County Assembly;
2. Managing Directors of involved water utilities;
3. External and independent expert

The advisory committee can meet periodically to monitor progress and document and define next steps.

3.2 Situational Analysis/ Baseline/ Assessment

In a first step, the CECM in charge of water affairs is advised to initiate an assessment of all companies by an independent consultant or institution in order to establish strengths and weaknesses of each of the companies and if a clustering makes sense and to elaborate on the options of clustering.

The assessment can be carried out in form of a study which identifies the strengths, weaknesses and key challenges facing each of the departments/water service provider, and come up with recommendations to address them during the transition phase.

In each of the water utilities proposed to be clustered, the following departments shall be assessed:

Departments	Areas of Assessment and Recommendations
HR and Admin	Organogram, staff inventory, function, qualification, contracts, skills, performance, etc.
Commercial	Meter reading, billing, revenue, new connections etc.
Finance	Accounts, budget, debts, cash flow, liabilities, subsidies, tariffs
Technical	Inventory of existing assets, O&M in production, distribution, sewerage, Non-Revenue Water, GIS and infrastructure development
ICT	IT systems (server, networks, data management), billing system, accounting system, GIS systems
Customer Care	Service charter, complaint system, customer care offices
Pro Poor	Set up, policy
Audit	Risk-management, quality management, audit plan, controlling
Procurement	Procurement plan and storage

3.3 Findings/ Recommendations and Decision Making

The final report with findings and recommendations shall be presented to the CECM for water and his advisory committee who review and finally provide decision on:

- If a clustering of the assessed water utilities is recommendable
- The type of clustering (joint provision or transfer of water service provision to one company)
- The leading company that is recommended to be the more viable and bigger in terms of number of connections or turn over.
- Continuation and gradual phase out of payment of subsidies - if applicable.

- Definition of specific benchmarks with indicators (benefits of clustering) which shall be achieved by the end of the clustering
- Required steps for emphasizing and disseminating the benefits of clustering to ensure the political goodwill and the communal participation on regional level.
- Selection criteria pointing out how the new Board of Directors of the new clustered water service provider will be constituted by taking into account the specific set up of the region. The number of Board of Directors should be in accordance with the WASREB corporate guidelines.

In this context the CECM shall consult WASREB on transitional solutions such as a temporary acceptance of all or some board members from the original utilities in the new board. It is recommended to have at least one board member to represent marginalized groups (see also WASREB's Technical Criteria Guideline).

3.4 County Clustering Policy

Clustering of WSPs is a key strategic step towards realization of sustainable and commercially viable water services in counties. In legal terms, clustering may take the form of a merger or takeover of existing WSPs. In order to institutionalize the process, it is imperative that the county water policy specifically pronounce the vision to cluster. The policy should provide for the strategic rationale behind this process and set out the county governments' undertaking to support the clustered entity financially. This financial support will take the form of targeted subsidies to respective cost centers to be highlighted in a clustering assessment study.

The county water policy is also a prerequisite legislative requirement for enacting a county water law which will generally set out the institutional framework for water services in the county.

The enactment of county water policy should however be undertaken through a consultative process as provided for under the County Government Act.

3.5 Public Participation

In agreement with the Governor's office, the CECM for water, in cooperation with the Managing Directors of each water service provider affected by the proposed cluster, shall organize to hold the following meetings to sensitize the different groups on the merger process:

- Full Board Meetings (FBM) per water service provider
- A joint meeting (induction) of all directors of the involved water companies
- Public consultations and stakeholder meetings for each water service provider
- Annual General Meetings (AGM) or Extraordinary General Meetings (EGM) for each water service provider

Once the clustering has been approved in the minutes of the meetings listed above, the CECM can instruct the formal clustering process of the water utilities to commence.

4 Formation of the New WSP

The constitution of a new water service provider shall follow the recommended process by WASREB separated into administrative consolidation and legal constitution. Administrative consolidation can start before or after the legal constitution and depends on the specifics of the planned clustering.

4.1 Administrative Consolidation



4.1.1 Strategic water service provider strengthening phase

The strengthening phase, shall focus on the least performing water service provider/utilities of a cluster so that they become operationally close to the better performing companies.

The key areas to be strengthened depend on the specific set up of the utilities to be clustered, but usually include:

- Digitization and mapping of existing infrastructure (asset management)
- Central Management Information System (MIS) at the Headquarters connected to all regional offices
- Embracing of new technologies e.g. Mpesa, SMS platform, mobile meter reading, billing, metering of consumers and customer care

Further, all legal documents of the merger or takeover have to be processed and the water utilities need to merge technically. Asset registers have to be harmonized, new tariff structure drafted and strategic/business plans prepared.

4.1.2 Development of a new organizational setup

An organizational structure serves the needs of an institution to fulfill its duties optimally. With the growth of each institution and new upcoming tasks, organizational structures need to be reviewed from time to time. The structure has to ensure that the strategic objectives can be achieved. Thus the structure follows the strategic plan.

The top management proposes uniform organizational structure and salary scaling system, taking into account temporary solutions with clear timelines for the entire harmonization of salaries in the new/clustered company. The organizational structure must be approved by the Board of Directors having involved the employee representatives (unions) to ensure ownership and acceptance by all stakeholders.

Review of organizational structure regarding the strategic objectives potentially with external support to be approved by the BoD.

4.1.3 Appointment of a Corporate Management Team

The Board of Directors of the new company shall competitively recruit a Managing Director and the new Corporate Management Team. Recruitment and appointment of the core management team will be guided by WASREB's technical and financial criteria for appointments of WSPs prescribed under Legal Notice No 137 of 2012.

Positions held by top management staff are supposed to be on contract basis with renewable terms. Clustering mostly affects the positions on top-management and administration level, where by many positions have a manager each, in the case of clustering of two utilities yet one candidate is required to occupy the position. To address this issue, an evaluation of all serving departmental managers shall be carried out in order to advise the new board on which candidates to appoint. Lower rated candidates either take over other positions in the clustered water service provider or leave the institution on their own and are compensated with a one-time down payment.

Appointments to be based on qualifications. The most suitable top managers from the existing management teams and/or seek for new or additional candidates.

4.1.4 Negotiation and agreements with staff representatives/ unions

The appointed top managers in coordination with representatives of the BoD have to negotiate with the staff representatives (unions) on how to further implement the new organizational structure and reporting lines. This should be spearheaded by the Managing Director.

Job guarantee for permanent staff

In this regard, the decision-makers have to assure a job guarantee to all staff members for the entire clustering period, in order to hold any emotional tendencies and opposition to a minimum. This should be ensured in written form to all staff members affected by the clustering.

In a separate meeting the staff needs to be informed about the implementation plan and its timelines. Transparency and the involvement of the unions in an additional task force team concerning "human resources and scales" should be considered.

Internal recruitment

After agreeing on the new organizational structure, the management elaborates work descriptions for all positions of the entire institution so that the staff can internally reapply. No external applicants shall be considered during this exercise. Additionally, it should be ensured that the employees will not be affected by salary cuts due to a transfer on a lower position.

4.1.5 Continuation of payment of subsidies (if applicable)

According to the viability assessment study of WASREB (Impact report 2013) most of the smaller utilities are neither commercially viable nor financially sustainable; they are not able to operate without subsidies from the county government.

The county government shall emphasize and assure that any subsidies provided earlier on to the low performing water utilities will be paid continuously until the least performing water service provider has managed to upgrade the infrastructure in subsidized areas up to a level of self-sustainability.

Safeguard commitment of County Government that any subsidies that were paid earlier on are paid continuously until self-sustainability is achieved by the new WSP.

4.2 Legal constitution



4.2.1 Development of a new Strategic Plan

During their first meeting, the Board of Directors of the clustered water service provider will determine the timelines for the preparation of a new strategic plan and business plan for the clustered company.

A **strategy** could be for instance that, as a first step, the entire organization focuses on achieving **financial self-sustainability** from the county government(s) before 100% water coverage and full customer satisfaction can be realized.

As a consequence, the entire organization will, in this case, deal with the question of how to stabilize the **revenue** and **expenses** of the clustered company so as to achieve self-sustainability as fast as possible.

Define next steps towards a strategic plan during the first full board meeting.

4.2.2 Review of new service provision area

The service areas of each water service provider need to be reviewed by the regulator. The new Managing Director can apply to WASREB for the review and pursue the certification of the new service provision area.

4.2.3 Application for a new Service Provision Area license

Application for a new service provision area license shall be submitted by the clustered company upon fulfilling clustering requirements set by WASREB and the licensing requirements envisaged under sections 97 and 86 of the Water Act 2016 respectively.

4.2.4 Application for a new tariff

The new or clustered company has to apply for a new tariff according to the tariff guideline by WASREB. It is important to note that the new service area and all costs have to be considered in the calculation including the liabilities of each company.

Option 1: Registration of a new company

Regular Tariff Adjustments (RTA) involves a comprehensive review of the business plan, capital work plan, and specific forms required by the Regulatory Board. An RTA may be undertaken no more frequently than a set period of one year (a duration called the “tariff period”).

Option 2: Joint provision under one license

Extraordinary Tariff Adjustment (ETA) allows for tariff adjustments due to specific categories of changes, which can significantly affect the cost of serving customers. The WSP/WSB and county government must prove that an ETA is justified due to extraordinary circumstances.

4.2.5 Registration of a new company

Where incorporation of a new company has been agreed on as a special purpose vehicle for clustering, the county attorney will need to draft memorandum and articles of association to conform to the model memorandum and articles developed by WASREB under section 72 (1)(e). The proposed company shall be a public limited liability company and the county shall ensure that it meets all the requirements sets out under section 77 (2),(3) and (4) of the Water Act 2016. In case of a takeover of a lower performing company, memorandum and articles of association of the best performing company shall be amended to conform with the model articles of association developed by WASREB and to the satisfaction of the CECM.

The memorandum and articles of association shall specify the exact composition of the board, i.e. which stakeholder shall be represented by a director, distribution of shares and set out the agreed cost centers within the clustered company

5 Operational phase

The operational phase is the final phase of the clustering process and takes the longest period. Operational plans are implemented at this phase and processes are fine-tuned.

During this time, the progress needs to be monitored closely, and if necessary adaptations need to be made rather flexible with regard to occurring hick-ups, i.e. suddenly arising aspects that might hamper the smooth success of the clustering process. At the end of this phase, the proficiency level of the clustered company shall be re-established on a higher level than before the clustering. The clustering can be defined as successful if the;

- key indicators of the impact report (published by WASREB) confirm an increase in the performance of the clustered water service provider
- specific benchmarks and benefits of the clustering process have been achieved

6 Summary Note

Clustering can be a great opportunity for the water sector in general and specifically for county governments to fulfill its mandate towards sustainable water services provision and universal access to water. Any clustering vision shall adhere to the standards set by WASREB to ensure a positive impact.

7 Literature

- Constitution of Kenya (CoK) 2010
- Water Act 2002
- Water Act 2016
- WASREB (2014): Assessing options to achieve commercial viability and financial sustainability of water supply and sanitation services.

8 Annex

8.1 Typical steps during clustering of water utilities

1 **Assessment**

- 1.1 Establishment of advisory committee for the CECM in agreement with the county government. Water Service Boards (WSBs) shall be involved in the clustering process from the onset to very final stage. WSB's hold the assets and may have loans over these assets.
- 1.2 Recruitment of independent advisor for an assessment study. An independent advisor who satisfies the competence criteria for clustering will be recruited and funded by the respective county government.
- 1.3 Carry out an assessment study and submit findings and recommendations
- 1.4 Meeting of advisory committee for review of assessment study and approval of clustering recommendation

2 **Approval**

- 2.1 Full Board Meetings (FBM) per water utility to inform the Board of Directors about the assessment study and planned cluster
- 2.2 A joint meeting of all directors of the involved water companies to emphasize on the planned clustering process
- 2.3 Public consultations and stakeholder meetings for each water utility to approve clustering
- 2.4 Annual General Meetings (AGM) or Extraordinary General Meetings (EGM) for each water utility to approve clustering
- 2.5 Approval and official instruction letter to the water utilities by the CECM water to cluster

3 **Transition**

3.1 **Company registration**

- 3.1.1 Consultations with company lawyer(s) to review existing memorandum and articles of association in order to harmonize in line with the model memorandum and articles of association developed by WASREB.
- 3.1.2 Registration process of the new company with Registrar of Companies or merger/ takeover depending on the decision taken by the function owner.
 - Filling of returns by company secretary
 - Filling of change of Company and or transfer of business at Registrar of Companies and other public offices
- 3.1.3 Processing of memorandum and articles of association of the company at Registrar of Companies. The memorandum and articles of association shall define and set out cost centers within the clustered company as part of organization and control of finances.

3.2 **Board of Directors (if applicable)**

- 3.2.1 Organize Annual General Meetings (AGM) or Extraordinary General Meetings (EGM) to declare vacancies of Board of Directors (BoD)
- 3.2.2 Hold stakeholder consultative meeting to appoint panel to interview directors
- 3.2.3 Hold Extraordinary General Meeting (EGM) to appoint new directors

3.3 Service Provision Agreement

3.3.1 Consultation with the respective Water Services Board on cancellation of existing Service Provision Agreements (SPAs) and determination of assets use through new asset arrangement and agreement.

3.3.2 Pursue certification of new service provision area by WASREB

3.3.3 Hold meeting with Legal Directorate of WASREB to consult about specific requirements for new license

3.3.4 Recruit a consultant to develop a new strategic plan

3.3.4 A Full Board Meetings (FBM) to review the proposed strategic plan, filling of other legal documents required at WASREB

3.3.5 Handover of all relevant documents to WASREB

3.3.6 Process the new license

4 Launching of new water utility

4.1 Induction/sensitization workshop for leaders (MCAs, MPs, Senator, Women Rep)

4.2 Launch the new water utility and invite the public.

8.2 Commercial viability criteria

Pre-requisite criteria	The county has enacted a County Water policy and law							
	Legal status - Proposed entity is constituted as per WASREB standards							
	Proposed WSP has a clearly defined service area which is georeferenced							
	Memorandum and articles of association - The memorandum and articles of association shall conform to the guidelines set and approved by the regulator							
Viability Criteria	Requirement	Source of Data	Weight	Level Assessment				
				Level 5	Level 4	Level 3	Level 2	Level 1
O + M Cost Coverage	<ul style="list-style-type: none"> The preferred ratio is at $\geq 150\%$ The lowest acceptable ratio is at 100% 	Impact/ License application	20	≥ 150	<150 - 131	130 - 116	115 - 101	≤ 100
Personnel Expenditure as a percentage of O+M costs	<ul style="list-style-type: none"> The preferred ratio is ≤ 20 A proportion of >30 is not acceptable 	Impact/ License application	10	≤ 20	$>20 - \leq 22$	$>22 - \leq 25$	$>25 - \leq 29$	≥ 30
Non-Revenue Water	<ul style="list-style-type: none"> The preferred ratio is at $<20\%$ A proportion ≥ 40 is not acceptable 	Impact/ License application	20	≤ 20	$>20 - \leq 24$	$>24 - \leq 30$	$>30 - <40$	≥ 40
Technical and Financial Capabilities (section 86(2)(c) of the Water Act 2016 and Legal Notice Number 137 of 2012)								
Water Quality	Compliance to Wasreb Standards	Inspection reports	5	Yes				No
Human Resource (Skills and recruitment process)	The WSP has the requisite skills and the process of recruitment is competitive		10	Fully compliant		Partially compliant		Non-compliant
Board of Directors (Size and recruitment process)	The size of the BoD complies with WASREB standards and the process of recruitment is competitive		5	Yes	n/a	n/a	n/a	No
Details of planned institutional and infrastructural improvements	Realization of acceptable benchmarks on quality of service indicators (against annual targets for universal access)	Impact/ License application	15	Fully realised		Partially		Not realised
Proposed tariff structure	The proposed tariff structure meets the requirements set by the regulator in terms of: <ol style="list-style-type: none"> Conservation Adequacy Equity/Fairness Enforceability and Simplicity Affordability 	RTA/ Application	15	Yes	n/a	n/a	n/a	No
Total Points			100					

The logo of the Water Service Regulatory Board is a stylized, abstract design on the left side of the page. It consists of several overlapping, curved shapes in shades of blue, forming a circular, eye-like or flame-like pattern. The background of the entire page is a solid, dark blue color.

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