REPUBLIC OF KENYA

BUSIA COUNTY GAZETTE SUPPLEMENT

BILLS, 2014

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THE BUSIA COUNTY ELECTRICITY RETICULATION BILL, 2014

A Bill for

AN ACT of the County Assembly of Busia to regulate the supply of electricity in the retail market; to set out the functions of persons engaged in the conveyance and supply of electricity and for connected purposes

ENACTED by the County Assembly of Busia as follows—

PART I—PRELIMINARY

1. This Act may be cited as the County Electricity Reticulation Act 2014 and shall come into operation on such date as the Member of the Executive Committee, with the concurrence of the Governor, may appoint.

2. The objectives of this Act are—

   (a) to promote the efficient and environmentally responsible production and use of electricity and to deliver a safe and reliable supply of electricity;

   (b) to confer on network operators such powers as are necessary to enable them to construct, operate, repair and maintain their electricity works, and

   (c) to promote and encourage the safety of persons and property in relation to the generation, transmission, distribution and use of electricity.

3. In this Act, unless the context otherwise requires—

   “authorised officer” means an authorised officer appointed by the Member of the Executive Committee under this Act.

   “customer” includes a wholesale customer.

   “Constitution” means the Constitution of Kenya, 2010;

   “executive committee” means Busia County Executive Committee established in accordance with Article 176 of the Constitution;
"county Gazette" means a gazette published by the authority of the county government or a supplement of such gazette;

"distribution network service provider" means a person who owns or controls a distribution system.

"distribution system" means the electricity power lines and associated equipment and electricity structures that are used to convey and control the conveyance of electricity—

(a) to the premises of wholesale and retail customers, up to the point of supply in relation to the premises (which may or may not be situated on the building or land comprising the premises),

(b) from the premises of regulated offer customers that have a complying generator installed and connected from the point of supply to the premises, or

(c) to, from and along the rail network electricity system, but does not include a transmission system or any lines, equipment and structures prescribed by the regulations.

"electrical installation" means the electrical wiring and associated equipment that are used to convey and control the conveyance of electricity within premises to which electricity is supplied from a distribution system, but does not include anything connected to and extending or situated beyond an electrical outlet socket.

"electricity delivery equipment" means any machinery, apparatus, appliances, material or other equipment used or intended to be used by any network operator or retailer for or in connection with the generation, transmission or distribution of electricity.

"electricity structure" means any structure (other than a building) that is used to carry overhead lines or associated equipment, and includes any structure that is used for the purposes of street lighting.

"electricity works" means any electricity power lines or associated equipment or electricity structures that form part of a transmission or distribution system.

"exercise" a function includes performs a duty.
“generating system” means the electrical equipment and associated electricity structures that are used to generate electricity for supply to a transmission or distribution system but, subject to the regulations, does not include a complying generator.

“government” means Busia County Government;

“licence” means a distribution network service provider’s licence.

“Member of the Executive Committee” means the Member of the Executive Committee responsible for energy.

“network operator” means a transmission operator or distribution network service provider.

“point of supply” in relation to the premises of a customer or a class of customers, means the point of supply to an electrical installation supplying electricity to the premises, as determined in accordance with the regulations.

“premises” includes any building or part of a building, any structure or part of a structure, any land (whether built on or not) and any river, lake or other waters.

“serious electricity works accident” means an accident—

(a) in which electricity works are involved, and

(b) as a consequence of which a person dies or suffers permanent disability, is hospitalised, receives treatment from a health care professional or is unable to attend work for any period of time.

“supply” in relation to electricity, means the supply of electricity by means of a transmission or distribution system.

“transmission operator” means a person who owns or controls a transmission system.

“wholesale customer” means a person to whose premises electricity is supplied under a wholesale supply arrangement.
"wholesale trader" means a person—

(a) who enters into wholesale supply arrangements, or

(b) who buys, sells or otherwise deals in rights to the supply of electricity arising under wholesale supply arrangements.

PART II—NETWORK OPERATIONS IN THE RETAIL MARKET

4. A person shall not operate a distribution system in BUSIA County for the purpose of conveying electricity, for or on behalf of retailers, otherwise than under the authority of a distribution network service provider's licence.

5. The Member of the Executive Committee shall grant distribution network service providers' licences for the purposes of this Act in the manner prescribed.

6. (1) A distribution network service provider may require the installation of such service lines, and provision for their attachment, as it considers necessary to provide a supply of electricity to or from a customer.

(2) The type, construction and route of a service line and its point of connection are to be as determined by the distribution network service provider.

(3) A distribution network service provider may require premises to be provided with more than one point of connection if the distribution network service provider considers it necessary to avoid interference with the supply of electricity to or from any other premises.

7. (1) A distribution network service provider may require the installation of such service equipment, and provision for its mounting, as it considers necessary for the provision of a safe and efficient supply of electricity to or from a customer.

(2) The position and standards of installation of service equipment are to be as determined by the distribution network service provider.

8. (1) A distribution network service provider may require the installation of such electricity meters as it
The Busia County Assembly Electricity Reticulation Bill, 2014

considers necessary to ascertain the quantity of electricity supplied to or received from a customer.

(2) The position and standards of installation of electricity meters are to be as determined by the distribution network service provider.

9. (1) A distribution network service provider:

(a) may impose such requirements as to the installation and use of electrical appliances and equipment by the customer as the distribution network service provider considers necessary to prevent or minimise adverse effects on the supply of electricity to or from other customers,

(b) may impose requirements relating to loading of, and the balancing of the load over, the phases of the customer's electricity supply,

(c) may impose requirements as to the minimum rupture rating or minimum breaking capacity of the customer’s main protective devices, and

(d) may require the customer to install relays, current transformers and other protective equipment having characteristics to suit the distribution network service provider's protective system.

(2) A customer shall comply with any requirement imposed on the customer under this section.

10. (1) For the purpose of complying with any requirement imposed under this Act, a customer may elect—

(a) to have any required electrical or other goods provided by the distribution network service provider (in the case of goods that are available from the distribution network service provider) or by any other person, and

(b) to have any required electrical or other services provided by the distribution network service provider (in the case of services that are available from the distribution network service provider) or by any other person.
(2) A person who provides electrical or other services of a kind prescribed by the regulations shall be accredited, in accordance with the regulations, to provide those services.

11. A distribution network service provider may attach seals to a customer's electrical installation if it considers it appropriate to do so.

12. The price for electricity network services that are the subject of an electricity network pricing determination and that are provided by a licensee with respect to customers shall be determined in the manner prescribed.

PART III – POWERS AND DUTIES OF NETWORK OPERATORS AND RETAILERS

13. (1) A network operator may acquire land (including an interest in land) for the purpose of exercising its functions under this or any other Act or law.

(2) Land that a network operator is authorised to acquire under this section may be acquired by agreement or by compulsory process.

14. (1) For the purpose of exercising its functions under this or any other Act or law, a network operator—

(a) may carry out work to which this section applies; and

(b) in particular, may carry out any such work on a public road or public reserve.

(2) However, no such work (other than routine repairs or maintenance work) may be carried out unless—

(a) notice of the proposal to carry out the work has been given to the county government;

(b) the county government has been given a reasonable opportunity (being not less than 40 days from the date on which the notice was given) to make submissions to the network operator in relation to the proposal; and

(c) the network operator has given due consideration to any submissions so made.
(3) This section does not apply to the carrying out of work to cope with emergencies.

15. (1) If a public road or public reserve is damaged by any work carried out by a network operator, the Member of the Executive Committee may require the network operator to make good the damage without delay.

(2) If the network operator fails to carry out appropriate work in accordance with any such requirement, the County Government shall carry out the work and recover the costs from the network provider.

16. (1) A network operator may serve a written notice on a person if—

(a) the network operator needs an alteration to be made in the position of a conduit owned by the person; and

(b) the alteration would not permanently damage the conduit or adversely affect its operation.

(2) The notice—

(a) shall specify the work to be carried out;

(b) shall specify a reasonable time within which the work is to be carried out; and

(c) shall include an undertaking by the network operator to pay the reasonable cost of carrying out the work.

(3) If the work is not carried out as required by the notice, the network operator may carry out the work in a manner that does not permanently damage the conduit or adversely affect its operation.

17. (1) This section applies if a network operator has reasonable cause to believe that a tree situated on any premises—

(a) could destroy, damage or interfere with its electricity works,

(b) could make its electricity works become a potential cause of bush fire or a potential risk to public safety.
(2) In those circumstances, a network operator—
   (a) may serve a written notice on the owner or occupier of the premises requiring the owner to trim or remove the tree, or
   (b) in an emergency, may, at its own expense, trim or remove the tree itself.

(3) A notice under subsection (2) (a)—
   (a) shall specify the work to be carried out;
   (b) shall specify a reasonable time within which the work is to be carried out; and
   (c) shall include an undertaking by the network operator to pay the reasonable cost of carrying out the work.

(4) Subsection (3) (c) does not apply in either of the following circumstances—
   (a) if, after the electricity works were first laid or installed, an owner or occupier of the premises planted the tree, or caused or permitted the tree to be planted, in circumstances in which the owner or occupier ought reasonably to have known that destruction of, damage to or interference with the works would result;
   (b) the land in or on which the tree is located, and on or over which the works are located, was the subject of an easement in favour of the network operator (or a predecessor of the network operator) when the tree was planted.

(5) If the work is not carried out as required by the notice, the network operator may carry out the work itself.

(6) The cost of carrying out the work may be recovered by the network operator in a court of competent jurisdiction as a debt owed to it by the owner of the premises on which the tree is situated, but only in the circumstances referred to in subsection (4)

18. (1) This section applies if a network operator has reasonable cause to believe that any structure or thing situated in, on or near its electricity works—
(a) could destroy, damage or interfere with those works; or
(b) could make those works become a potential cause of bush fire or a potential risk to public safety.

(2) In those circumstances, a network operator—

(a) may serve a written notice on the person having control of the structure or thing requiring that person to modify or remove it; or
(b) in an emergency, may, at its own expense, modify or remove the structure or thing itself.

(3) A notice under subsection (2) (a) —

(a) shall specify the work to be carried out; and
(b) shall specify a reasonable time within which the work is to be carried out.

(4) If the person fails to carry out the work in accordance with the requirement, the network operator may carry out the work itself.

(5) The costs of—

(a) carrying out the work; and
(b) repairing any damage done to the network operator's electricity works by the structure or thing,

may be recovered by the network operator in a court of competent jurisdiction as a debt owed to it by the person.

(6) A network operator may apply for an injunction to prevent a structure or thing being placed in, on or near its electricity works.

(7) A network operator may take action under this section even if the person having control of the structure or thing owns or occupies the land in, on or over which the network operator's electricity works are situated.

(8) Subsection (5) does not enable the network operator to recover any costs referred to in that subsection from a person referred to in subsection (7).
19. (1) This section applies if a network operator has reasonable cause to believe that the carrying out or proposed carrying out of excavation work in, on or near its electricity works:

(a) could destroy, damage or interfere with those works; or

(b) could make those works become a potential cause of bush fire or a potential risk to public safety.

(2) In those circumstances, a network operator may serve a written notice on the person carrying out or proposing to carry out the excavation work requiring the person—

(a) to modify the excavation work; or

(b) not to carry out the excavation work, but only if the network operator is of the opinion that modifying the excavation work will not be effective in preventing the destruction or damage of, or interference with, the electricity works concerned or in preventing those works becoming a potential cause of bush fire or a potential risk to public safety.

(3) A notice under subsection (2) shall specify the excavation work that is to be modified or not carried out.

(4) A network operator may recover the following costs in a court of competent jurisdiction as a debt owed to it by a person who carried out excavation work the subject of a notice under subsection (2)—

(a) the costs incurred in replacing any of the network operator's electricity works destroyed by the excavation work;

(b) the costs incurred in repairing any damage to the network operator's electricity works caused by the excavation work;

(c) the costs incurred in remedying or mitigating any interference with the network operator's electricity works caused by the excavation work.

(5) A network operator may apply for an injunction to prevent the carrying out of excavation work in, on or near its electricity works.
(6) A network operator may take action under this section even if the person carrying out the excavation work owns or occupies the land in, on or over which the network operator's electricity works are situated.

20. A network operator or retailer is the owner of its electricity works, whether or not the land in, on or over which they are situated is owned by the network operator or retailer.

21. A network operator or retailer may interrupt the supply of electricity to a customer, at such reasonable times as the network operator or retailer determines—

(a) for the purpose of inspecting, testing or carrying out repairs or maintenance work on its electricity works, or

(b) for such other purpose as the network operator or retailer considers necessary for the safe and efficient operation of its electricity works.

PART IV—POWERS OF ENTRY

22. (1) An authorised officer of a network operator may enter any premises for the purpose of exercising any function conferred or imposed on a network operator by or under this or any other Act or law, including:

(a) carrying out preliminary investigations in connection with the proposed installation or extension of electricity works;

(b) installing, extending, maintaining, repairing or removing electricity works;

(c) reading electricity meters;

(d) checking if the network operator's conditions relating to tariffs and the use of electricity are being complied with; or

(e) ascertaining whether an offence against this Act or the regulations has been committed.

(2) An authorised officer of a retailer may enter the premises of a customer for the following purposes in respect of electricity works prescribed by the regulations—

(a) carrying out preliminary investigations in connection with the proposed installation or extension of electricity works;
(b) installing, extending, maintaining, repairing or removing electricity works;

(c) reading electricity meters;

(d) checking if the retailer's conditions relating to tariffs and the use of electricity are being complied with;

(e) ascertaining whether an offence against this Act or the regulations has been committed.

(3) Except in emergencies, a power of entry may be exercised only during daylight hours.

23. (1) Before an authorised officer of a network operator or retailer exercises a power of entry under this Act, the network operator or retailer concerned shall give the owner or occupier of the land written notice of the intention to enter the land.

(2) The notice shall specify the day on which the authorised officer intends to enter the land and shall be given before that day.

(3) This section does not require notice to be given—

(a) if entry to the land is made with the consent of the owner or occupier of the land; or

(b) if entry is required for the sole purpose of reading an electricity meter; or

(c) if entry is required in an emergency.

25. (1) Reasonable force may be used for the purpose of gaining entry to any land (other than such part of a building as is being used for residential purposes) under a power conferred by this Act, but only if authorised by the network operator or retailer concerned in accordance with this section.

(2) The authority—

(a) shall be in writing,

(b) shall be given in respect of the particular entry concerned, and

(c) shall specify the circumstances that shall exist before force may be used.
26. (1) An authorised officer—

(a) who uses force for the purpose of gaining entry to land, or

(b) who enters land in an emergency without giving written notice to the owner or occupier of the land, shall promptly advise the network operator or retailer concerned of that fact.

(2) The network operator or retailer shall give notice of the entry to such persons or authorities as appear to the network operator or retailer to be appropriate in the circumstances.

27. (1) In the exercise of a power under this Division, an authorised officer shall do as little damage as possible.

(2) As far as practicable, entry onto fenced land is to be made through an existing opening in the enclosing fence or, if entry through an existing opening is not practicable, through a new opening.

(3) Any new opening is to be properly closed when the need for entry ceases.

(4) If, in the exercise of a power under this Division, any pit, trench, hole or bore is made, the network operator or retailer concerned shall, if the owner or occupier of the land so requires—

(a) fence it and keep it securely fenced so long as it remains open or not sufficiently sloped down; and

(b) without unnecessary delay, fill it up or level it or sufficiently slope it down.

28. If an authorised officer enters any land for the purpose of making an inspection and, as a result of the inspection, the network operator or retailer concerned requires any work to be carried out on the land, the network operator or retailer may recover the reasonable costs of the entry and inspection from the owner or occupier of the land.

29. The network operator or retailer concerned shall pay compensation to the owner or occupier of any land in respect of which a power has been exercised under
this Act for any loss or damage arising from the exercise of the power, but is not so liable to the extent to which the loss or damage arises from work done for the purposes of an inspection which reveals that there has been a contravention by the owner or occupier, as the case requires, of any provision of this Act or the regulations.

30. (1) A power of entry under this Act may not be exercised by an authorised officer unless the authorised officer—

(a) is in possession of a certificate of authority issued by the network operator or retailer concerned; and

(b) produces the certificate when required to do so by the owner or occupier of the land.

(2) The certificate of authority—

(a) shall state that it is issued under this Act;

(b) shall give the name of the person to whom it is issued;

(c) shall describe the nature of the powers conferred and the source of those powers;

(d) shall state the date (if any) on which it expires;

(e) shall describe the kind of land to which the power extends; and

(f) shall be under the seal of the network operator or retailer or shall bear the signature of the principal officer of the network operator or retailer, of a prescribed officer of the network operator or retailer or of an officer belonging to a prescribed class of officers of the network operator or retailer.

31. A power of entry conferred by this Act is not exercisable in relation to such part of a building as is used for residential purposes except—

(a) with the consent of the occupier of that part of the premises;

(b) for the sole purpose of reading an electricity meter; or
(c) under the authority conferred by a warrant of entry.

PART V—MARKET OPERATIONS

32. (1) The Member of the Executive Committee may make rules for or with respect to the following matters—

(a) procedures for measuring electricity consumption or generation of customers;

(b) provision of services and equipment relating to the measurement and control of customers' electricity consumption or generation and persons who may or may not provide such services;

(c) requirements for equipment used to measure and control customers' electricity consumption or generation;

(d) the circumstances in which ownership of any such equipment may be transferred and the procedures for the transfer; or

(e) any other matter prescribed by the regulations.

(2) A rule may make provision for or with respect to a matter by applying, adopting or incorporating, with or without modification, the provisions of any Act or statutory rule or any other publication, whether of the same or of a different kind.

(3) A rule may—

(a) apply generally or be limited in its application by reference to specified exceptions or factors;

(b) apply differently according to different factors of a specified kind; or

(c) authorize any matter or thing to be from time to time agreed, determined, applied or regulated by any specified person or body.

33. (1) The Member of the Executive Committee may, by notice in writing served on a distribution network service provider, direct the service provider to remove or relocate an electricity structure specified in the notice if—
(a) the structure is erected within the service provider's distribution district; and

(b) the structure is on or adjacent to a public road that is—

(i) a traffic route; or

(ii) a public road that the Member of the Executive Committee has, for the purpose of traffic safety and having regard to the volume and nature of the vehicular traffic carried on it, determined requires the removal or relocation of the structure.

(2) A distribution network service provider shall comply with a notice served on it under subsection (1).

34. (1) The Member of the Executive Committee may appoint any person as an inspector for the purposes of any or all of the provisions of this Act or the regulations.

(2) The Member of the Executive Committee may at any time and for any reason revoke a person's appointment under subsection (1).

(3) An inspector is to be provided by the Member of the Executive Committee with a certificate of identification.

(4) An inspector shall, when exercising in any place any function of the inspector under this Act or the regulations, produce the inspector's certificate of identification to any person apparently in charge of the place who requests its production.

35. A person shall not—

(a) without reasonable excuse, refuse or fail to comply with any notice given or requirement made, or to answer any question asked, by an inspector under this Act or the regulations;

(b) provide information or give evidence in purported compliance with a requirement made or question asked by an inspector under this Act or the regulations knowing the information or evidence to be false or misleading in a material particular;
(c) wilfully delay, hinder or obstruct an inspector in the exercise of the inspector's functions under this Act or the regulations; or

(d) falsely represent himself or herself to be an inspector.

36. (1) An inspector may enter any place at any reasonable time for the purpose of inspecting any electrical installation, corrosion protection system or stray current source in the place.

(2) An inspector may require—

(a) the relevant distribution network service provider for an electrical installation to disconnect the installation if the inspector reasonably believes that it is necessary for the installation to be disconnected in the interests of safety, or

(b) any person who claims to be an authorised electrician to produce for inspection by the inspector, within such time as the inspector specifies, the person's licence or other authority to do electrical wiring work, or

(3) If the Member of the Executive Committee believes on reasonable grounds that there are in any place documents evidencing conduct in connection with relevant electrical equipment in contravention of this Act or the regulations, an inspector may, with the written authority of the Member of the Executive Committee, enter the place, inspect any documents and make copies of them or take extracts from them.

(4) An inspector may not exercise the inspector's functions under this section in relation to a part of any premises being used for residential purposes except—

(a) with the permission of the occupier of that part of the premises, or

(b) under the authority conferred by a search warrant.

37. (1) The Member of the Executive Committee may from time to time cause any electricity delivery equipment to be examined and tested for the purpose of determining whether the equipment can be used safely.
(2) An inspector may enter any place at any reasonable time for the purpose of examining or testing any electricity delivery equipment that is in the place.

38. (1) If the Member of the Executive Committee is satisfied that electricity delivery equipment cannot be used safely, the Member of the Executive Committee may, by order served on the network operator or retailer using or proposing to use the equipment, prohibit the use of the equipment.

(2) An order under this section may permanently prohibit the use of the electricity delivery equipment concerned or prohibit the use of the equipment until such time as it is repaired or altered to the satisfaction of the Executive Committee.

39. (1) A serious electricity works accident shall be notified in accordance with subsection (2) to the Member of the Executive Committee by the distribution network service provider or transmission operator that owns or controls the distribution system or transmission system of which the electricity works.

(2) A notice of an accident shall be given within 7 days after the accident in such manner as may be prescribed by the regulations.

(3) The regulations may exclude a person, or a person belonging to a class of persons, prescribed by the regulations from any requirement under this section to notify the Member of the Executive Committee of a serious electricity works accident.

40. The Member of the Executive Committee may arrange for an inspector to investigate and report to the Member of the Executive Committee concerning serious electricity works accident, whether or not notice of the accident is given under this Act.

41. (1) For the purposes of this Act, an inspector may, in any place where a serious electricity works accident has or may reasonably be expected to have occurred do any one or more of the following—

(a) enter and inspect the place;
(b) examine and test any electrical installation or other electrical equipment;
(c) take photographs;

(d) take for analysis a sample of any substance or thing that in the inspector's opinion may relate to the accident;

(e) require any person in the place to produce any record that may be of relevance to the occurrence of the accident;

(f) take copies of, or extracts or notes from, any such record;

(g) require any person in the place to answer questions or otherwise furnish information relating to the accident;

(h) require the owner or occupier of the place to provide the inspector with such assistance and facilities as are reasonably necessary to enable the inspector to exercise the inspector's functions under this section.

(2) If the Member of the Executive Committee believes on reasonable grounds that there are in any place documents evidencing conduct in connection with a serious electricity works accident in contravention of this Act or the regulations, an inspector may enter the place, inspect any documents and make copies of them or take extracts from them.

(3) An inspector may not exercise the inspector's functions under this section in relation to a part of any premises being used for residential purposes except—

(a) with the permission of the occupier of that part of the premises; or

(b) under the authority conferred by a search warrant.

42. (1) A person shall not disturb or interfere with the site of a serious electricity works accident before it has been inspected by an inspector except:

(a) to make it safe;

(b) with the permission of an inspector; or

(c) as provided by the regulations.
43. The Member of the Executive Committee may publish such details of serious electricity works accidents as the Member of the Executive Committee considers necessary in the interests of public information and safety.

PART VI—OFFENCES

44. A person shall not abstract, cause to be wasted or diverted, consume or use any electricity from a generating, transmission or distribution system unless authorised to do so under a wholesale supply arrangement or customer retail contract.

45. A person shall not interfere with a network operator's or retailer's electricity works unless authorised to do so by the network operator or retailer concerned.

46. (1) A person shall not enter, climb or be on a network operator's or retailer's electricity works unless authorised to do so by the network operator or retailer concerned.

(2) A person is not guilty of an offence under this section if the person establishes that he or she had a reasonable excuse for entering, climbing or being on the electricity works or entered, climbed or was on the electricity works for a lawful purpose.

47. A person shall not alter or otherwise interfere with a meter that is connected to a distribution network service provider's distribution system unless authorised to do so by the distribution network service provider.

48. A person shall not alter or otherwise interfere with any seal that has been attached to an electrical installation by a distribution network service provider unless authorized to do so by the distribution network service provider.

49. A person shall not connect an electrical installation to a distribution network service provider's distribution system unless authorized to do so by the distribution network service provider.

50. A person shall not increase the capacity of an existing connection to a distribution network service provider's distribution system unless authorized to do so by the distribution network service provider.
51. A person shall not alter or add to an electrical installation that is connected to a distribution network service provider's distribution system so as to cause the supply of electricity to the installation or any part of it to be incorrectly metered unless authorised to do so by the distribution network service provider.

52. A person shall not—
(a) prevent an authorised officer from exercising any function conferred or imposed on the authorised officer under this Act;
(b) hinder or obstruct an authorised officer in the exercise of any such function; or
(c) impersonate an authorised officer.

PART VII—MISCELLANEOUS PROVISIONS

53. (1) The Member of the Executive Committee may, by order published in the County Gazette, declare any specified electricity power lines and associated equipment and electricity structures to be a transmission system for the purposes of this Act.

(2) An order under this section takes effect on the day on which it is published in the County Gazette or on such later day as is specified in the order.

54. The Authority shall in consultation with the Member of the Executive Committee formulate and implement immediate, medium-term and long-term administrative or policy measures to encourage the participation of development partners and the private sector in the development of the energy sector in Busia County.

55. The Member of the Executive Committee shall incorporate a limited liability company owned by the County Government to undertake the business of electricity generation, transmission and distribution.

56. Where a person is convicted of an offence under this Act for which no penalty is expressly provided, the person shall be liable to a fine not exceeding three million shillings or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.
57. The Member of the Executive Committee may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
MEMORANDUM OF OBJECTS AND REASON

The bill has been submitted by the member of the Executive Committee responsible for energy and resources. The bill seeks to provide a legal regime for matters relating to electricity supply and management, and to establish the county department of power.

Article 2 states and outlines the overriding objectives of the bill as to provide a harmonized, efficient and effective legal regulatory framework for the development and regulation of county power and electricity matters for the following purposes—

(a) To promote efficient and environmentally responsible production and use of electricity and to deliver safe and reliable supply of electricity.

(b) To confer on network operators such powers as are necessary to enable them to construct, operate, repair and maintain their electricity works; and

(c) To promote and encourage the safety of persons and property in relation to the generation, transmission, distribution and use of electricity.

Article 3 deals with the interpretation and definition of the relevant terminology of words used in the act.

Article 4 deals with the requirement of a license for a person to operate a distribution system for the purpose of conveying electricity for or on behalf of retailers with the authority of distribution network service provider’s license.

Under Article 5, the grant of licenses for the network service providers by the member of the Executive Committee.

Article 6(1) (2) and (3) respectively deal with service lines. It is to the effect that distribution and network service providers may as it deems necessary install service lines at its point of connection and it may require premises to be provided with more than one point of connection if it considers it necessary to avoid interference with the supply of electricity to or from any other premises.

Article 7 deals with the installation of service equipment and provision for its mounting by a distribution network service provider as it considers necessary for the provision of a safe and efficient supply of electricity to or from a customer.

Article 8 requires the installation of electricity metres to ascertain the quality of electricity supplied to or received from a customer.
Article 10 provides for the customer to choose a supplier and contractor for goods and services provided by distribution network service provider.

Article 11 requires a distribution network service provider to attach seals to a customer’s electrical installation if it considers appropriate to do so.

Article 12 provides for the pricing of electricity for customers as in the manner prescribed.

Article 13 deals with acquisition of land including an interest in land by a network operator through either by agreement or by compulsory process for the purposes of exercising it functions under this act.

Article 14 is to the effect that the erection and placement of electricity works other than routine repairs and maintenance work cannot be done unless notice of the proposed work has been given to the County Government under a reasonable opportunity of not less than 40 days from the date of notice to make submissions to the network operator and the network operator has given due considerations to any submission so made.

Article 15 requires that the network operator makes good the damage of a public road or a public reserve if damaged failure of which the county government shall carry out the work and recover the costs from the network provider.

Article 16 requires notice to a person for alteration of the position of conduit owned by the person, by the network operator and the notice to specify the work to be done, the reasonable time of the work done and an undertaking by network operator to pay the reasonable cost of carrying out the work.

Article 17 deals with measures to be taken upon interference of electricity works by trees.

Article 18 deals with measures to be taken upon the obstruction of electricity works by structures or things situated in or near that could destroy or do damage with this work.

Article 19 deals with measures to be taken upon the excavation works that may affect electricity works and could be a potential risk to the public safety.

Article 20 bestows ownership of electricity works whether or not the land in, on or over which they are situated on the network operator or retailer.

Article 21 is to the effect that for the purpose of inspecting, testing or carrying out repairs on its works, a network operator may interrupt the electricity supply.
Article 22 gives powers of entry to an authorized officer of a network operator upon any premise for purpose of exercising any function conferred on him by the Act with a sufficient notice given to the owner of the land.

Article 24, 25, 26, 27, 28, 29, and 30 respectively deal with use of force or urgent entry, the care to be taken, the recovery of cost of entry and inspection, compensation, certificate of authority to enter land and the entry to residential premises.

Article 31(1)(2)(3) deal with market operation rules made by the Member of the Executive Committee in respect of procedures for measuring electricity consumption by the customers, provision of equipment relating to measurement of electricity consumption and any other matter prescribed.

Article 33, 34 and 35 respectively deal with appointment of inspectors for purposes of achieving the objectives of the Act and prohibits the obstruction or frustration of the inspectors in carrying out their functions.

Article 40 outlines the powers of inspectors that may be exercised where serious electricity works accidents has or is likely to occur.

Article 41 prohibits a person from interference with site of serious electricity works accident before it has been inspected by an inspector and under article 42, publication of details of serious electricity work accidents may be published by the Member of the Executive Committee as it considers necessary for the interest of public information and safety.

Article 43 to 51 respectively deals with the offenses and penalties related to electricity as follows—

- theft of electricity;
- interference with electricity work;
- entering, climbing or being on electricity works;
- interference with electricity meters;
- interference with distribution network service provider’s seal;
- unauthorized connections and increase in capacity of connections;
- unauthorized alterations and additions to electrical installations; and
- the obstruction of authorized officers.

Article 52, 53, 54, 55, and 56 respectively deal with miscellaneous provisions for instance transmission systems, measures to encourage investment in the energy sector, the incorporation of a limited liability
company, the general penalty on regulations to be made that are inconsistent with the Act.

Dated the 20th May, 2014.

JOSEPHAT WANDERA,
Majority Leader and Vice Chairperson,
County Assembly Service Board.