



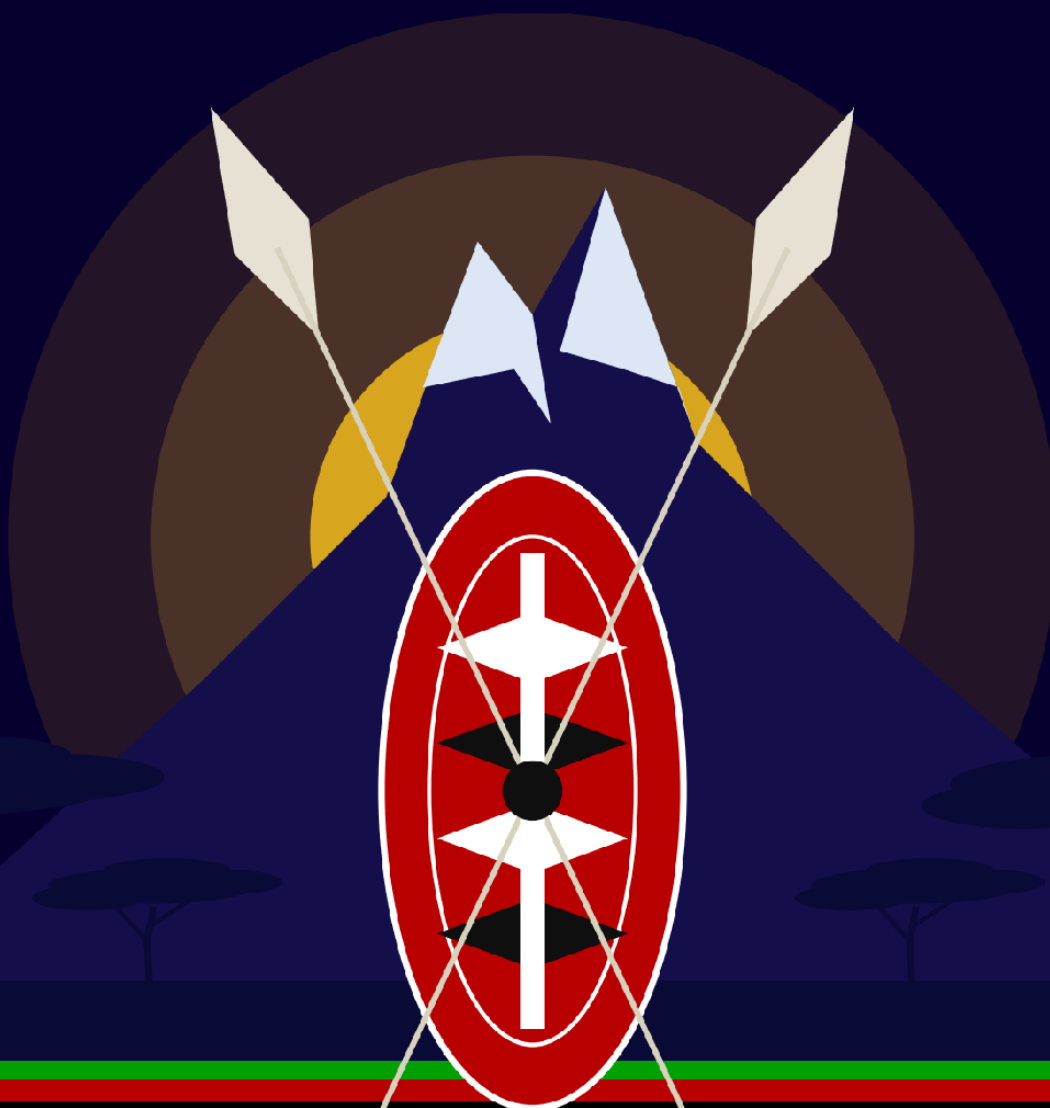
Genie Capital

AFRICA ENERGY EVOLUTION

Kenya 2026

Structural Diagnosis and Policy Proposal

Who owns the grid is not who writes the rules





Genie Capital

Africa Energy Evolution: Kenya 2026

Structural Diagnosis and Policy Proposal

PREPARED FOR

Government of the Republic of Kenya, Policymakers, the People of Kenya, Development Partners

PREPARED BY

Genie Capital Ltd

FRAMEWORK

Nikoka Protocol, Industrial Stack

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Preamble

This report is a structural diagnosis of Kenya's electricity sector and a proposal for how the state can reclaim competitiveness in it. It does not review tariffs line by line, and it does not rehearse the familiar debate about "bad contracts". It asks a different question: **who controls the rules that determine how value flows through the sector, and what can the state do about it without triggering the crisis it fears?**

The analysis proceeds from a single observation: **the Kenyan state owns a great deal of the energy sector but does not control the rules that govern it.** That gap between ownership and control is the diagnosis. The numbers in the report — what each producer supplies, what each is paid, what each charges — are the evidence.

The proposal that follows does not attack the rules head-on, because the contracts are locked and the cost of confrontation is high. It builds alternatives at the periphery — regional power trade, distributed generation, county-level energy markets and the unserved — until the centre loses its leverage. The report then anticipates how the current beneficiaries will respond: by exiting, attacking or adjusting.

The report is written for the Government of Kenya, policymakers, the people of Kenya and development partners. It is released under CC-BY-NC-SA and may be shared, adapted and built upon freely for non-commercial purposes.

Method and sources. The report synthesises only publicly available information — audit reports, parliamentary findings, regulator publications, company results and press coverage — through the lens of the Nikoka Protocol and the Industrial Stack [10–13]. Its strategic reasoning draws on the strategy and legitimacy literature [1, 5, 6, 21, 24, 26, 29]. Bracketed numbers refer to the References at the end. Prices quoted in US dollars use an approximate rate of KSh 129 per dollar.

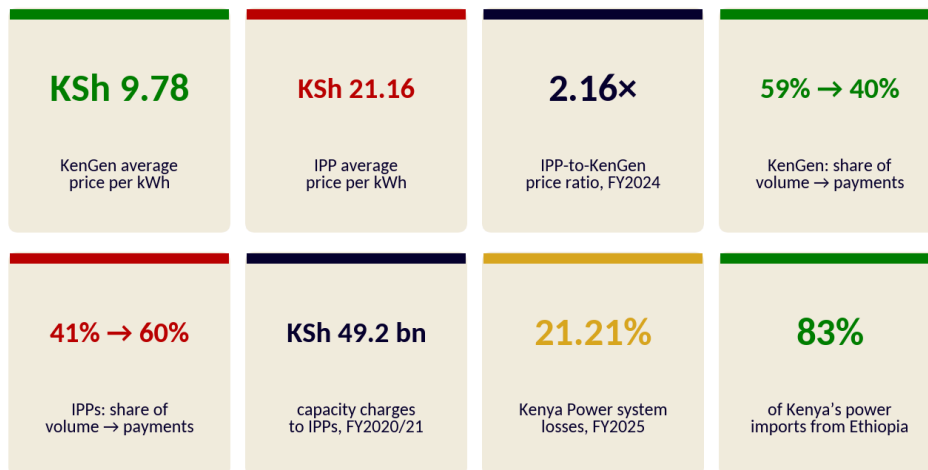


Figure 1. Kenya's electricity sector at a glance. Sources: Auditor-General (FY2024) [23]; Kenyan Wallstreet [17]; Kenya Power results [16]; Ethiopian Electric Power [9].

The argument in brief

- 1. The setup.** Until 1997 the sector was a vertically integrated state monopoly. The 1997 reform, shaped by World Bank and IMF conditionality, let the state keep the wires and the risk while private capital took the high-value producer layer.
- 2. The mechanism.** Dollar-denominated tariffs, take-or-pay clauses, sovereign guarantees, international arbitration and opaque ownership embedded the asymmetry in the rules themselves.



3. The evidence. In FY2024 KenGen supplied 59% of electricity and received 40% of payments; IPPs supplied 41% and received 60%. IPPs charged KSh 21.16 per kWh against KenGen's KSh 9.78.

4. The diagnosis. Protocol capture: the state owns the infrastructure and carries the risk, while the rules that set prices and allocate risk sit in contracts and institutions beyond its unilateral reach.

5. The proposal. Do not attack the centre. Build the periphery — regional imports, distributed generation, counties, the unserved — until take-or-pay contracts lose their leverage. The May 2026 Open Access Regulations are the first step.

6. The response. Incumbents will exit, attack or adjust. The state must prepare for all three, and speed is the decisive variable.



PART I

The Setup

How a state monopoly became a captured system





1. Background: The Setup

1.1 The Original Architecture

At independence and through the first three decades of nationhood, Kenya's electricity sector was a vertically integrated state monopoly. The Kenya Power and Lighting Company (KPLC) controlled generation, transmission, distribution and retail. There was no independent regulator; tariffs were set administratively. The sector's logic was simple: the state owned the infrastructure, the state set the rules, and the state bore the risk.

In 1997 this architecture was dismantled — not by domestic choice alone, but through conditionality attached to balance-of-payments support from the World Bank and the International Monetary Fund. The Electric Power Act of 1997 unbundled generation from transmission and distribution, established the Electricity Regulatory Board (ERB, later succeeded by the Energy Regulatory Commission and, in 2019, the Energy and Petroleum Regulatory Authority, EPRA), opened generation to Independent Power Producers (IPPs), and committed Kenya to cost-reflective tariffs and commercialisation [30].

The logic was presented as modernisation. The effect was structural transformation. The state retained ownership of the wires and the retail interface. Private capital was invited into generation. But the rules governing the entire value chain — pricing, risk allocation, dispute resolution — were now written in a framework shaped by external conditionality.

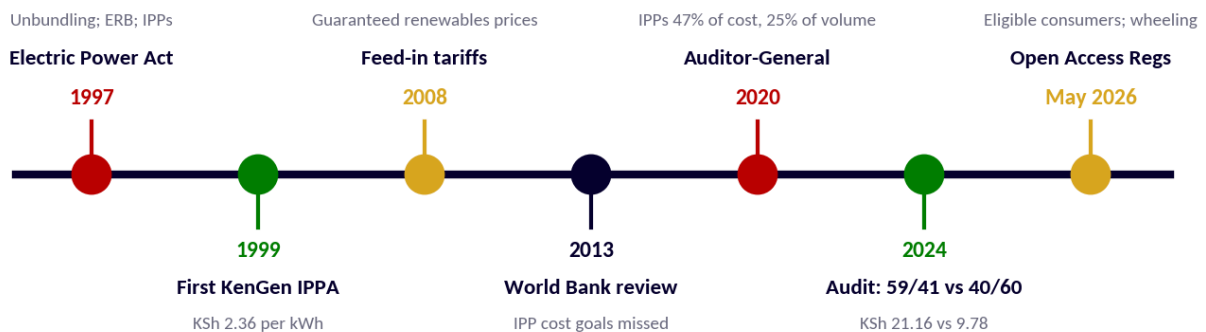


Figure 2. Key moments in the evolution of Kenya's power sector, 1997–2026 [3, 7, 14, 23, 30].

1.2 Mapping the Stack: Pre-1997 versus Post-1997

The Industrial Stack describes any industry in five layers: Producer, Aggregator, Platform, Infrastructure and Protocol. Mapped onto Kenya's power sector, the 1997 reform changed who controlled the top and bottom layers, and left the middle looking untouched.



LAYER	PRE-1997	POST-1997
Protocol	Ministry / Parliament	EPRA + PPAs + WB/IMF conditionality
Infrastructure	KPLC	KPLC / KETRACO (state)
Platform	KPLC (dispatch)	KPLC (retained)
Aggregator	KPLC	KPLC (retained)
Producer	KPLC generation	KenGen (state) + IPPs (private)

The state kept the visible layers (wires, poles, retail) and surrendered the invisible one: the rules.

Figure 3. The five layers of the sector before and after 1997. Red marks the layers that changed hands in substance.

The state retained the visible layers — the wires, the poles, the retail interface. It surrendered the invisible layer: the rules. This is the essence of **Protocol capture**. The state kept the infrastructure and the risk. Private capital took the high-value Producer layer, protected by rules it helped write.



PART II

The Discontinuity

The mechanism of capture and the evidence in the numbers



2. The Discontinuity and Deregulation: Implications

2.1 The Mechanism of Capture

The 1997 Act was not merely a technical reform. It was a Protocol-layer intervention. The rules that emerged from the reform process embedded specific structural asymmetries.



Figure 4. Five mechanisms through which the rules transferred risk and reward.

- **Dollar-denominated tariffs.** IPP power purchase agreements (PPAs) were denominated in US dollars, shifting foreign-exchange risk onto Kenya Power and, ultimately, Kenyan consumers. When the shilling depreciates, the consumer pays more — not because generation costs have risen, but because the contract structure transfers currency risk downstream.
- **Take-or-pay clauses.** Most legacy PPAs contain take-or-pay provisions. Kenya Power is contractually obligated to pay for a guaranteed percentage of capacity — often around 85% — regardless of whether the electricity is dispatched. This shifts demand risk from the IPP to Kenya Power and the consumer. The IPP is insulated from the consequences of overcapacity.
- **Government guarantees.** Many PPAs carry sovereign guarantees. If Kenya Power defaults, the Kenyan taxpayer is liable. Default risk is socialised; returns are privatised.
- **International arbitration.** Disputes are resolved under international arbitration clauses, often in foreign jurisdictions. This removes the Kenyan state's ability to interpret its own public interest in its own courts.
- **Opaque ownership.** A parliamentary investigation in 2025 found a "general opaqueness in the disclosure of beneficial owners" among IPPs. Offshore holding structures in jurisdictions such as the British Virgin Islands obscure ultimate beneficiaries [18, 22].

2.2 The Volume–Payment Mismatch in Plain Numbers

The most striking evidence of structural extraction is the relationship between what KenGen supplies and what it receives, versus what the IPPs supply and what they receive. In the year ending June 2024, the Auditor-General's report disclosed the following [23]:



Supplier	Volume supplied	Payment received	Share of payments
KenGen	59%	KSh 49.4 billion	40%
IPPs	41%	KSh 73.7 billion	60%
Total	100%	KSh 123.1 billion	100%

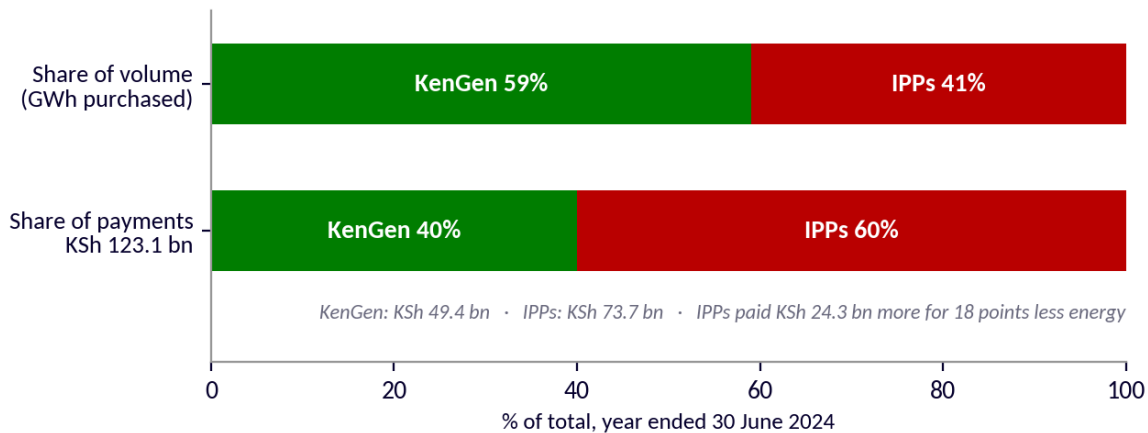


Figure 5. Volume supplied versus payments received, year ended 30 June 2024. Source: Auditor-General [23].

KenGen supplied 59% of the electricity but received only 40% of the money — KSh 49.4 billion. The IPPs supplied 41% of the electricity but collected 60% of the money — KSh 73.7 billion. In other words, the IPPs received KSh 24.3 billion more than KenGen while supplying 18 percentage points less electricity.

This is not a rounding error. It is a structural transfer of value from the state-owned generator to private producers, and every Kenyan consumer who pays an electricity bill pays for this asymmetry. The Auditor-General, Nancy Gathungu, put it plainly: KenGen was paid KSh 49,369,297,000, or 40 per cent, compared to the IPPs' KSh 73,723,453,000, or 60 per cent of the total purchase cost.

2.3 The Price Disparity: KenGen versus IPPs

The volume–payment mismatch is the result. The cause is the price per unit.

Metric	KenGen	IPPs	Ratio
Average price per kWh	KSh 9.78	KSh 21.16	2.16×
Geothermal price per kWh	KSh 8.24	KSh 17.28	2.10×
Thermal price per kWh	~KSh 29.00	~KSh 43.76	1.51×

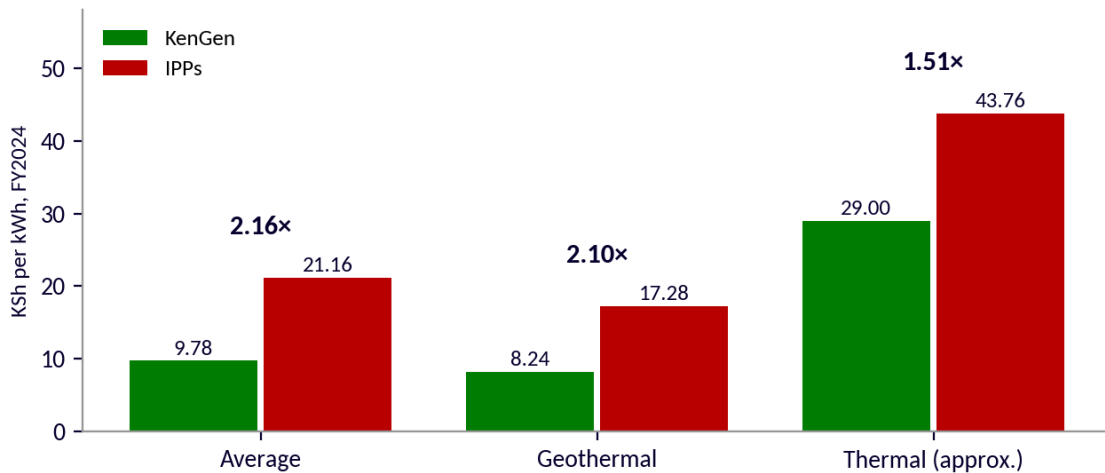


Figure 6. Average price per kWh by supplier and technology, FY2024. Source: Kenyan Wallstreet, 23 July 2025 [17].

The two sets of numbers agree: dividing the payment share by the volume share gives $(60 \div 41) \div (40 \div 59) \approx 2.16$, the same ratio as the price per unit. For geothermal — Kenya's main renewable power source and the resource with the lowest marginal cost — IPPs charge KSh 17.28 per unit while KenGen supplies the same resource at KSh 8.24. The private producers are charging more than double for the same underground steam.

The disparity is even more extreme in specific contracts. A parliamentary committee found that KenGen charges only KSh 5.41 per unit, while IPPs charge between KSh 9.89 and KSh 173.08 per unit, and concluded that the cost of IPP electricity can be over 30 times what KenGen charges [22]. $(173.08 \div 5.41 \approx 32.)$

2.4 The Evolution of the Disparity Over Time

The price gap did not emerge overnight. It was built into the architecture from the beginning and has persisted over time.

1999–2006: The Foundation Years

The first Interim Power Purchase Agreement between KenGen and KPLC was signed on 13 July 1999 at an agreed price of KSh 2.36 per kWh. A supplementary agreement in 2004 reduced the bulk tariff to KSh 1.76 per kWh for three years, after which the tariff reverted to the initial level [14, 15]. These were the prices at which the state generator was locked in.

Meanwhile, the first emergency IPPs — Westmont and Iberafrica — were commissioned in 1997 on terms negotiated during a supply crisis. Their tariffs were set in dollars, with take-or-pay clauses and sovereign guarantees. The asymmetry was embedded from the start.

2008–2015: The Feed-in Tariff Era

The government introduced a Feed-in Tariffs (FiT) scheme in 2008 to encourage renewable generation. The framework, while well-intentioned, created a new tier of guaranteed prices for private producers that were often above KenGen's cost of production. The OrPower 4 geothermal plant, for example, negotiated a unit charge of US\$0.11 per kWh, while KenGen's geothermal cost was a fraction of that.



2019–2020: The Auditor-General's Findings

The Auditor-General's report for the financial year 2019/20 revealed that Kenya Power paid KSh 47.5 billion to IPPs as capacity charges — payments for availability rather than energy delivered. In 2020/21 that figure rose to KSh 49.2 billion [3, 27].

By 2020 the structural imbalance had become undeniable. IPPs accounted for 47% of power procurement cost for the financial year 2020 but provided only 25% of power volumes. Thermal IPPs — the most expensive producers — provided only 5% of all the power Kenya Power bought in 2020 but received 20% of the money paid to power producers [3].

2023–2024: The Disparity Persists

By the year ending June 2024 the figures had crystallised into the asymmetry documented above.

Period	KenGen price per kWh	IPP price per kWh	Price ratio
1999	KSh 2.36	—	—
2004	KSh 1.76	—	—
2013	~KSh 5.30	~KSh 15.30	~2.9×
2020	~KSh 5.41	IPPs: 47% of cost, 25% of volume	≈2.7× (derived)
2024	KSh 9.78	KSh 21.16	2.16×

Note on the 2020 row: the 2020 ratio is derived from the cost and volume shares above, comparing IPPs with all other supply: $(47 \div 25) \div (53 \div 75) \approx 2.7$. It is therefore a comparison with all non-IPP supply rather than with KenGen alone.

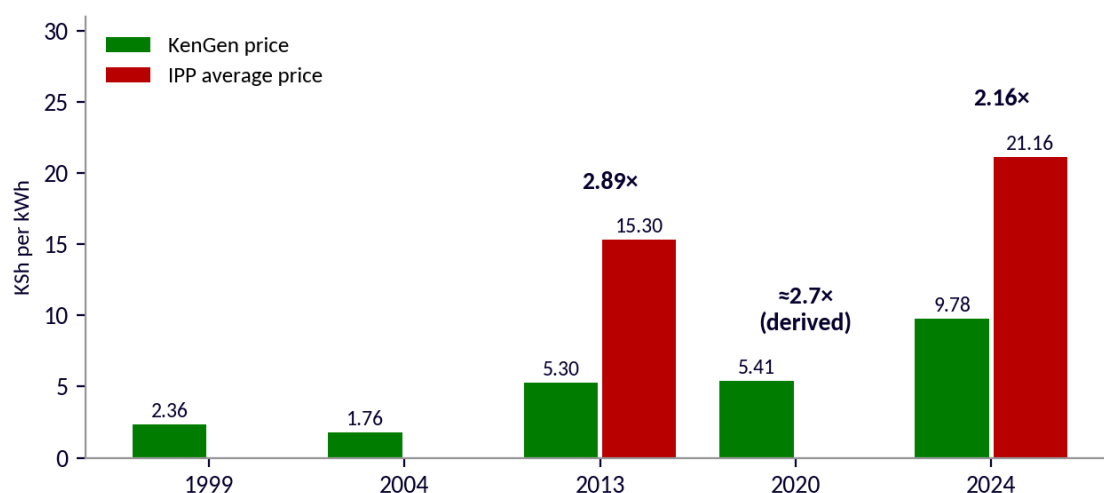


Figure 7. KenGen and IPP prices over time (KSh per kWh). Sources: KenGen agreements [14, 15]; Auditor-General and press reports [3, 17, 23].

The ratio has fluctuated but never closed. Even at its narrowest — 2.16× in 2024 — the IPPs charge more than double what KenGen charges. At its widest in the data available — roughly 2.9× in 2013 — the disparity was close to threefold.

The Capacity Charge: Paying for Availability

The capacity charge deserves separate attention. Under take-or-pay clauses, Kenya Power pays IPPs for capacity whether or not it is used. This is not a payment for electricity; it is a payment for the option to buy electricity. And it is a payment that Kenyans make whether they use the electricity or not.

Financial year	Capacity charges paid to IPPs
2019/20	KSh 47.5 billion
2020/21	KSh 49.2 billion
2021/22	KSh 49.6 billion (est.)

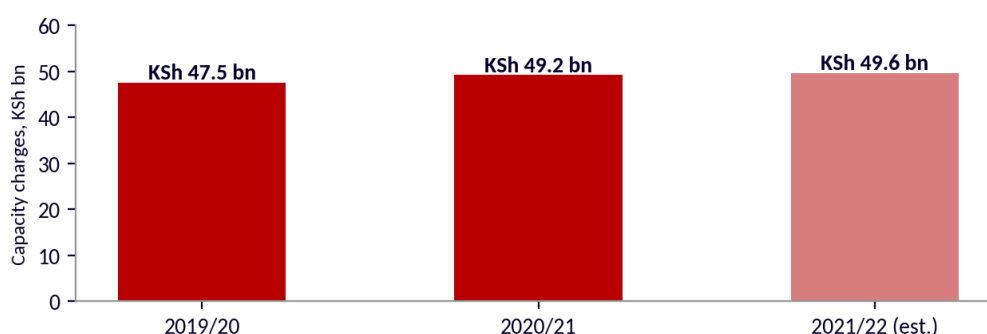


Figure 8. Capacity charges paid to IPPs. Sources: Auditor-General reports as cited in *Business Daily* and *The Standard* [3, 27].

The capacity charge is value moved from Kenyan consumers to private producers irrespective of the electricity delivered.

2.5 The Ideological Cover

This architecture was not presented as value extraction. It was presented as efficiency, commercialisation and private sector participation. The language was technocratic: "unbundling", "cost-reflective tariffs", "independent regulation". But the effect was to create a rentier structure in which a small number of private actors could capture monopoly rents, backed by the coercive power of the state and the creditworthiness of multilateral institutions.

A 2013 World Bank evaluation acknowledged problems: the IPP programme did not achieve the expected reductions in the cost of power, and the process of negotiating and approving PPAs was not transparent [30]. By then the contracts were signed, the investments sunk and the structure locked in.



PART III

The Diagnosis

Where Kenya Power stands, what the state really controls, and why standard tools fail





3. The Current State

3.1 Kenya Power's Financial Position

For the financial year ended 30 June 2025, Kenya Power reported [16]:

Metric	FY 2025	FY 2024	Change
Electricity revenue	KSh 219.29 billion	KSh 231.12 billion	−5.1%
Profit before tax	KSh 35.37 billion	KSh 43.67 billion	−19.0%
System losses	21.21%	23.16%	Improved

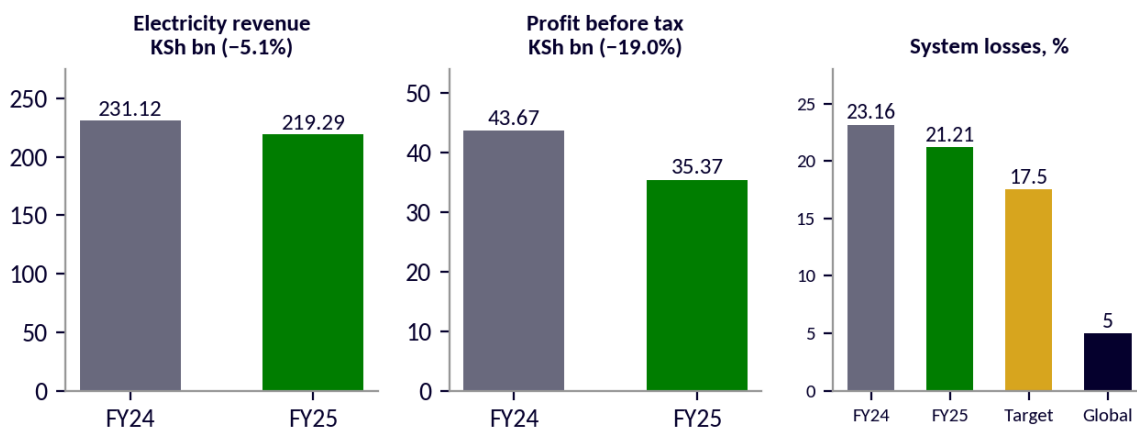


Figure 9. Kenya Power financial and loss indicators, FY2024 versus FY2025. The "Target" bar is the regulator's 17.5%; "Global" is the approximate utility benchmark.

Electricity revenue declined by KSh 11.83 billion, primarily because of lower foreign-exchange recoveries and a reduced average tariff. System losses improved from 23.16% to 21.21% — the company's best full-year figure on record — but remain far above the regulator's target of 17.50% and global utility benchmarks near 5%. One press estimate puts the annual cost of system losses at about KSh 12.8 billion [20].

By the half-year ending December 2025, Kenya Power reported a record profit before tax of KSh 14.83 billion, with electricity revenue up 6.9% to KSh 114.87 billion. Units sold rose 10.5% to 6,086 GWh. System losses were 22.03% for the half-year; this is a half-year figure and is not directly comparable with the 21.21% full-year result [19].

3.2 The Cost Structure

The retail tariff is composed of three elements: the base tariff, pass-through charges, and taxes and levies. For a typical domestic consumer on the DC3 tariff, the base charge stood at KSh 18.57 per unit in December 2025, unchanged for several months. The final bill includes fuel cost and forex adjustment charges that fluctuate monthly. For small commercial consumers (SC3, above 100 kWh), electricity costs about KSh 28.90 per kWh, with roughly KSh 19.00 as the base tariff [8].

**Where each KSh 100 of electricity revenue goes (FY2025)****KSh 66 → generators (KenGen + IPPs + imports)****KSh 34 → Kenya Power***must cover network, staff, losses, debt service,
rural electrification***Figure 10.** Gross margin: out of every KSh 100 of electricity revenue, about KSh 34 stays with Kenya Power.

Kenya Power's gross margin for FY2025 was approximately 34% of electricity revenue — the difference between what it collects from customers and what it pays generators. Out of every KSh 100 a customer pays for electricity, roughly KSh 34 remains with Kenya Power after paying generators, and KSh 66 flows to the generation segment. This gross margin must cover Kenya Power's operating costs: distribution network maintenance, staff, system losses, debt servicing and rural electrification obligations.

3.3 The IPP Landscape

The IPPs currently supplying Kenya Power include [18]:

Company	Known ownership
Globeleq (Tsavo Power, Menengai Geothermal)	British International Investment (70%), Norfund (30%)
OrPower 4 and OrPower 22	OrPower 4: Ormat Technologies (Israel/USA); OrPower 22: Kaishan Group (China)
Iberafrica Power	A.P. Moller Capital (Denmark)
Thika Power	Originally Melec PowerGen (Lebanon); later A.P. Moller Capital
Rabai Power	Aldwych International (34.5%), Burmeister & Wain (25.5%), FMO (20%)
Triumph Power	Triumph Group Ltd, linked to the Abdirahman Haji Abass family; offshore BVI entities
Gulf Power	Gulf Energy Ltd, Noora Power Ltd; Francis Koome Njogu linked
Kipeto Energy	Meridiam (majority), Craftskills Wind Energy (minority, Kenyan)

The pattern is clear: predominantly foreign-owned, often with opaque offshore structures, with local elite participation in some cases.



4. The Diagnosis

4.1 Protocol Capture

The Kenyan government owns a great deal of the energy sector. It does not control the rules that determine how value flows through it. That gap between ownership and control is the diagnosis.

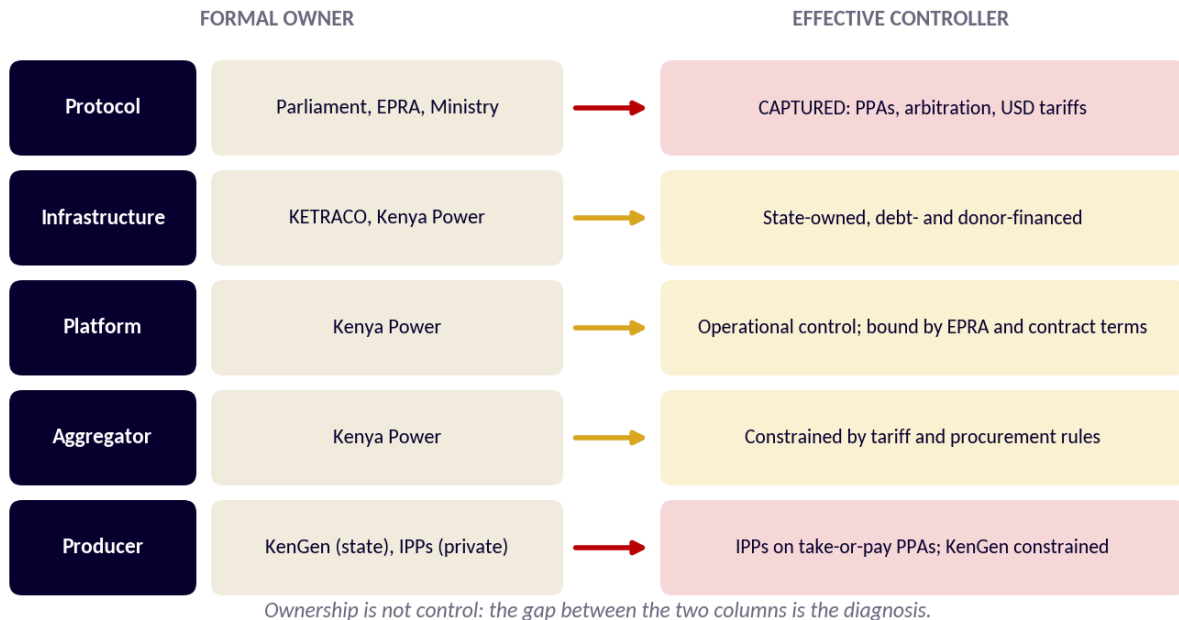


Figure 11. Formal owner versus effective controller at each layer of the stack.

The state sits at the Protocol layer in name. But the actual rules that govern pricing, risk allocation and dispute resolution are embedded in contracts it did not write alone and institutions it does not fully control.

4.2 The Three Interlocking Mechanisms

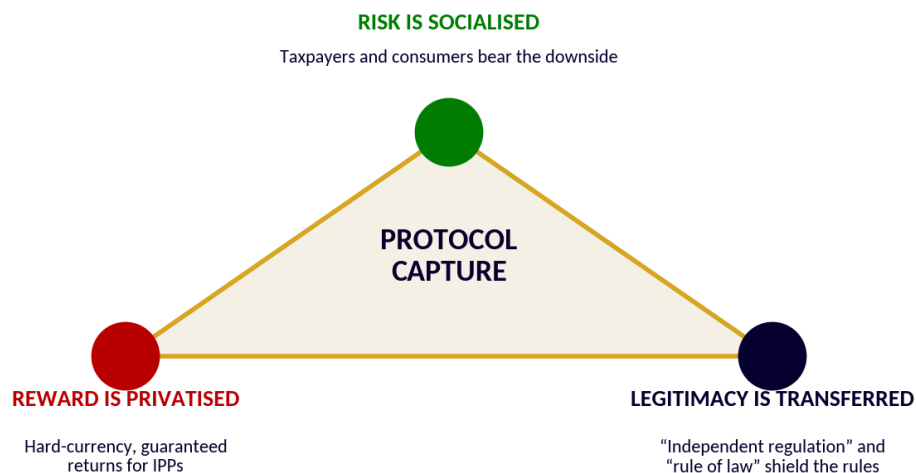


Figure 12. Three mechanisms that lock the capture in place.



- **Risk is socialised.** The government guarantees IPP obligations, absorbs forex risk, pays for capacity not used and carries rural electrification debt. The taxpayer and consumer bear the downside.
- **Reward is privatised.** IPPs capture hard-currency returns, protected by take-or-pay clauses and international arbitration. KenGen, the low-cost producer, is squeezed into a subordinate pricing position.
- **Legitimacy is transferred.** The rules are presented as "independent regulation", "commercial contracts" and "rule of law". This makes it difficult for the government to reassert control without appearing to violate investor confidence or the rule of law [29].

4.3 The Structural Bind

Kenya Power is the interface with the customer — the aggregator that bills, collects and manages the retail relationship. Yet it has limited control over the largest cost component (generation) and no control over the retail price (set by EPRA). Its influence is largely operational: it can improve system efficiency, reduce losses and manage its own cost base. But it cannot unilaterally reprice the wholesale contracts that determine two-thirds of the retail tariff.

The result is that Kenya Power functions less as a value-capturing monopolist and more as a cost pass-through conduit with a fixed operating margin — one that is frequently squeezed by the terms of contracts it inherited and the political economy of tariff-setting [25].



5. Why Conventional Tools Miss It

5.1 Tariff Reviews

EPRA conducts periodic tariff reviews. These reviews adjust the base tariff to reflect changing costs. But they do not alter the underlying contract structure. A tariff review can adjust the retail price, but it cannot renegotiate a take-or-pay clause or a dollar-denominated PPA. The review operates within the captured Protocol, not against it.

5.2 Calls for Transparency

Parliamentary inquiries, forensic audits and public disclosure requirements are valuable. They expose the problem. But they do not change the contracts. Transparency is a necessary condition for reform, not a sufficient one. The contracts remain locked regardless of how many audits are conducted.

5.3 Renegotiation Demands

Direct calls to renegotiate PPAs trigger arbitration clauses, capital flight threats and credit downgrades. The "investor confidence" narrative — itself a weapon of the centre — is deployed to discipline any state that attempts to alter the terms of the captured Protocol.

5.4 The Nikoka Protocol Perspective

The Nikoka Protocol identifies seven gates that must be passed for strategic legitimacy [10]. Five of them are directly relevant here, and the state, as currently positioned, fails all five:

Gate	Status	Failure mode
Layer Gate	Fails	State is confused about which layer it controls
Upward Control Gate	Fails	State participates in layers above (ownership) while regulating them
Neutrality Gate	Fails	State is both referee and player
Conflict Gate	Fails	State has conflicts of interest that prevent neutral rule-setting
Center Gate	Fails	State is at the centre of the conflict, not at the edge

The state's strategic position is structurally compromised. It cannot act as a neutral Protocol-setter because it is too deeply embedded in the layers above [11, 12, 13].



PART IV

The Way Forward

The periphery strategy, the rentier response and the conclusion



6. The Proposal to Reclaim Competitiveness

6.1 The Strategic Logic: Start from the Periphery

The Nikoka Protocol's Center Gate says: stay at the edge, not the centre. The centre is where conflicts concentrate, where legitimacy collapses, where you become the target. The IPPs are the centre. The legacy PPAs are the centre. EPRA's tariff methodology is the centre.

If Kenya attacks these head-on, it triggers arbitration, capital flight, credit downgrades and the full weight of the "investor confidence" narrative. The move is not to attack the centre. The move is to build the periphery until the centre becomes irrelevant.

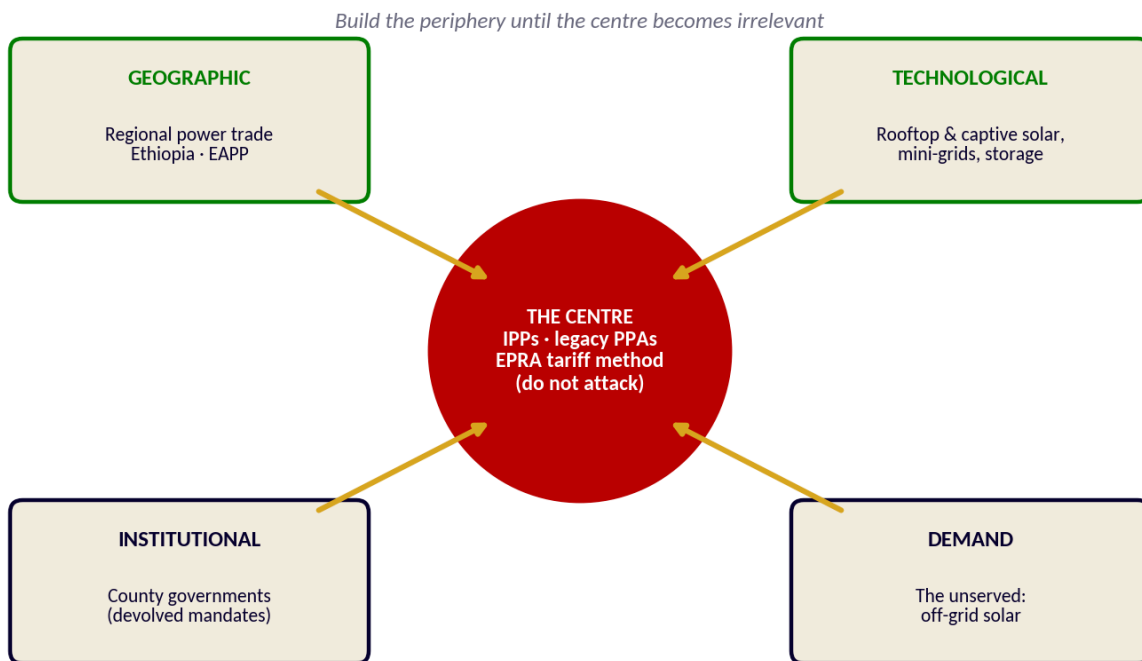


Figure 13. *The periphery strategy: four fronts that erode the centre's leverage without confronting it.*

6.2 The Peripheries

Geographic Periphery: Regional Power Trade

Ethiopia has over 2,000 MW of cheap hydro available for export. The Kenya–Ethiopia interconnector has a capacity to export up to 2,000 MW. Kenya already imports 300 MW from Ethiopia and transits 100 MW to Tanzania under the Eastern Africa Power Pool framework. Ethiopia supplies 83% of Kenya's electricity imports, and Kenya pays about 6.5 US cents per kWh for Ethiopian power — roughly KSh 8.4 — far below the KSh 21.16 average paid to IPPs [9].

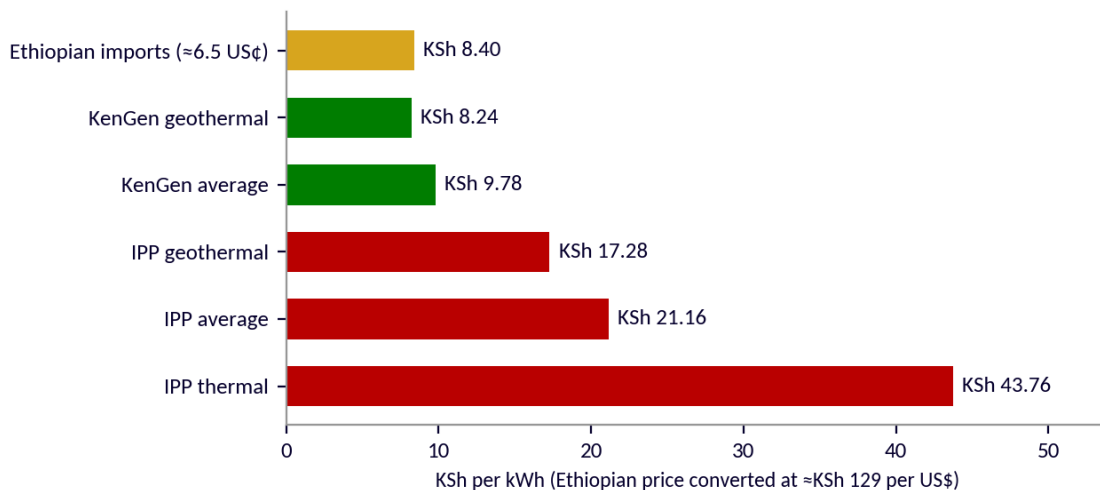


Figure 14. *The price ladder: Ethiopian imports and KenGen sit at the bottom; IPPs, and thermal IPPs especially, at the top.*

If Kenya can import power at US\$0.04–0.07 per kWh while thermal IPPs charge about KSh 43.76 (roughly US\$0.34), the IPPs' leverage collapses — not because their contracts are renegotiated, but because no one needs them anymore. A take-or-pay clause is only powerful if you have no alternative.

Technological Periphery: Distributed Generation

Rooftop solar, captive solar, mini-grids, industrial self-generation and storage bypass the grid entirely. Every megawatt of self-generation is a megawatt of demand that never hits the grid — and a megawatt of take-or-pay obligation that Kenya Power pays for but cannot sell. The state can accelerate this through net metering, feed-in tariffs, tax incentives and streamlined licensing for distributed generation.

Institutional Periphery: County Governments

Devolution gave counties energy mandates. County governments can plan, license and develop their own energy projects — mini-grids, solar, small hydro, biomass. They are not captured by the legacy Protocol. They can negotiate directly with developers, set their own tariffs for off-grid areas and build new institutional capacity outside EPRA's captured logic.

Demand Periphery: The Unserved

Millions of Kenyans still lack electricity. The grid monopoly has failed to reach them profitably. Off-grid solar and mini-grids are serving them now. Every customer served off-grid is a customer who never becomes a Kenya Power customer — and a customer who never pays for the IPP overcapacity embedded in the tariff.

6.3 The Regulatory Instruments

The government has already begun to move. In May 2026, EPRA gazetted the Energy (Electricity Market, Bulk Supply and Open Access) Regulations, 2026 [4, 7, 28]. These regulations:

- Provide a framework for establishing a competitive electricity market.
- Introduce non-discriminatory open access to transmission and distribution systems.
- Allow eligible large consumers to procure electricity directly from licensed generators.
- Allow producers to rival Kenya Power by selling directly to large consumers.



This is the deregulation downward that the diagnosis demands. The regulations introduce open access and eligible consumers, allowing large users meeting specified thresholds to procure electricity directly from licensed generators while using national networks upon payment of wheeling charges.

Critically, the World Bank warned against this push to end Kenya Power's monopoly. The state proceeded anyway. That is the beginning of recapture.

6.4 The Nikoka Protocol Framing

Element	Application
Layer	Protocol (building new rules at the periphery)
Control	Logic (new rule-sets)
Output dimensions	Coherence × Universality
Purity	High (new actors are not conflicted)
Gates	Center Gate: stay at the edge. Conflict Gate: avoid direct confrontation.
Purpose	Transform (change the system by building outside it)
Option	Expand Upward / Expand Downward at the periphery
Execution	Build regional trade, distributed generation, county markets, new partnerships. Measure. Iterate.

7. Scenarios: Rentier Responses to the Policy Proposal

The policy proposal described above — building the periphery to make the centre irrelevant — will not go unanswered. The current beneficiaries of the captured Protocol are not passive. They have every incentive to defend their position, and they have multiple levers to do so. The question is not whether they will respond, but how. Three scenarios are plausible: **Exit, Attack and Adjustment**.

These scenarios are not predictions. They are strategic anticipations. Understanding them allows the state to prepare counter-moves for each.

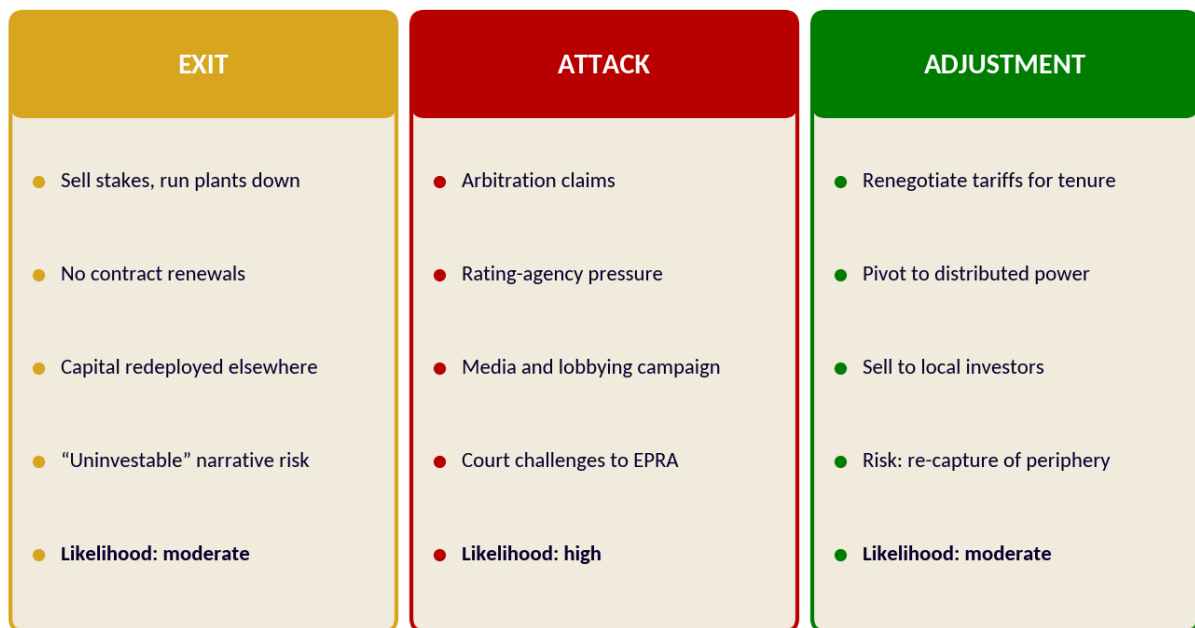


Figure 15. Three plausible rentier responses.

7.1 Scenario One: Exit

The rentier move. The IPPs, facing a shrinking market share and eroding contract value, choose to disengage. They sell their stakes to other investors — often at a discount — or they allow their plants to run down without reinvestment. They do not renew expiring contracts. They take their capital and go elsewhere.

What it looks like in practice:

- Globeleq sells its Kenyan assets to a regional investor or a Gulf sovereign fund.
- OrPower 22, owned by China's Kaishan Group, redirects its East African expansion to Tanzania or Mozambique.
- A.P. Moller Capital divests its Kenyan thermal portfolio and focuses on ports and logistics.
- International arbitration claims are filed for early termination compensation, but the companies do not seek to re-enter the market.
- New investment in Kenyan generation from Western IPPs dries up entirely.



Why they would do this. Exit is rational when the risk-adjusted return on remaining capital falls below the opportunity cost. If the periphery strategy succeeds, the IPPs face:

- Declining dispatch from Kenya Power as regional imports and distributed generation displace thermal capacity.
- Renegotiation pressure on take-or-pay clauses as Kenya Power's demand falls below contracted capacity.
- Increased scrutiny of dollar-denominated tariffs as the shilling stabilises and forex adjustment becomes politically untenable.
- Loss of sovereign guarantees as the government restructures its contingent liabilities.

For some IPPs, particularly those with short remaining contract tenures or older, less efficient plants, exit is the optimal move. They extract what value remains and redeploy capital to markets with weaker states and stronger protections.

Implications for Kenya:

- **Positive:** The exit of high-cost IPPs reduces Kenya Power's take-or-pay burden. The market opens for new entrants — regional traders, distributed generation developers, county-level projects.
- **Negative:** The exit of all private capital could be framed as "investor flight", damaging Kenya's creditworthiness and making it harder to finance new infrastructure.
- **The narrative risk:** The Bretton Woods institutions and international media will frame exit as evidence that Kenya is "uninvestable". This narrative is itself a weapon — an attempt to discipline Kenya back into the captured Protocol.

State counter-move:

- Prepare alternative financing sources (China, Gulf sovereign funds, regional development banks) before the exit becomes visible.
- Frame exit as "market rationalisation", not "investor flight".
- Ensure that regional imports and distributed generation scale fast enough to fill the gap.
- Use the exit of high-cost IPPs as a negotiating lever with remaining ones: the market is changing — adapt or follow them out.

7.2 Scenario Two: Attack

The rentier move. The incumbents fight back through every available channel. They do not accept the new market structure. They use their political, legal, financial and media leverage to reverse, delay or dilute the policy proposal.

What it looks like in practice:

- **Arbitration:** IPPs file international arbitration claims, arguing that open access and retail competition breach their exclusive offtake rights under existing PPAs.
- **Credit rating pressure:** Rating agencies, advised by the same financial institutions that own the IPPs, downgrade Kenya Power and Kenyan sovereign debt, raising borrowing costs.
- **Media campaign:** International media publish stories about "Kenya's risky energy experiment" and "capital flight from East Africa".
- **Political capture:** IPP-linked local elites lobby Parliament to water down the Open Access Regulations. County governors with IPP ties resist distributed generation in their counties.



- **World Bank/IMF pressure:** The Bretton Woods institutions tie new loans to "respect for existing contracts" and "investor confidence", effectively demanding that Kenya abandon the periphery strategy.
- **Legal challenges:** IPPs challenge EPRA's regulatory authority in Kenyan courts, seeking injunctions against open access implementation.
- **Sovereign guarantee calls:** IPPs demand that the government honour sovereign guarantees for contracted capacity that Kenya Power no longer dispatches.

Why they would do this. Attack is rational when the incumbents believe they can win — or at least force a negotiated settlement that preserves most of their rents. They have deep pockets, legal teams, political connections and the structural advantage of being the centre. They also have the "investor confidence" narrative, a powerful weapon in a country dependent on external finance.

Implications for Kenya:

- **Legal risk:** Arbitration claims could result in multi-billion-shilling awards against Kenya Power and the Kenyan government.
- **Fiscal risk:** Credit downgrades would raise the cost of servicing existing debt and new borrowing.
- **Political risk:** A well-funded media and political campaign could destabilise the government and empower opposition figures aligned with the incumbents.
- **Time risk:** Legal challenges could delay implementation of the periphery strategy by years, allowing the incumbents to regroup.

State counter-move:

- **Legal preparation:** Before implementing open access, build a legal team capable of defending against arbitration. Identify which PPA clauses are vulnerable and which are defensible.
- **Financial preparation:** Secure alternative credit lines from non-Western sources. Reduce dependence on Bretton Woods institutions.
- **Political preparation:** Build a domestic coalition — manufacturers, consumers, counties, civil society — that benefits from the periphery strategy. Make opposition to reform politically costly.
- **Narrative preparation:** Frame the attack as "rentier resistance to competition". Publish the price disparity data. Make the case that the incumbents are defending monopoly, not markets.
- **Negotiated settlement:** Offer the incumbents a face-saving exit — a buyout of their contracts at a discount, or a transition period during which their capacity is phased down rather than abruptly displaced.

7.3 Scenario Three: Adjustment

The rentier move. The incumbents accept the new market structure and reposition themselves to compete within it. They do not fight the periphery strategy. They adapt to it.

What it looks like in practice:

- IPPs voluntarily renegotiate their PPAs, accepting lower tariffs in exchange for extended contract tenures or increased dispatch priority.
- Globeleq and other development finance-backed IPPs pivot to distributed generation — solar mini-grids and rooftop installations — competing in the new periphery market.
- A.P. Moller Capital invests in regional transmission infrastructure, positioning itself as a platform provider for cross-border trade.



- Some IPPs sell their Kenyan assets to local investors — pension funds, county governments, cooperatives — and exit the market gracefully.
- New entrants from China, India and the Gulf acquire the assets of exiting Western IPPs, bringing different financing models and lower return expectations.

Why they would do this. Adjustment is rational when the incumbents calculate that the periphery strategy is unstoppable and that fighting it is more costly than adapting to it. This is more likely when:

- The state's commitment to reform is credible and sustained.
- Alternative financing is clearly available.
- The incumbents' home governments do not back their fight.
- The incumbents see new profit opportunities in the periphery (distributed generation, regional trade, county markets).

Implications for Kenya:

- **Positive:** A negotiated transition is faster, cheaper and less legally risky than a forced one. The incumbents' capital, expertise and networks can be redeployed to the periphery.
- **Negative:** The incumbents may use their incumbency to capture the periphery too — building distributed generation oligopolies, dominating county markets or capturing the regional trade infrastructure.
- **The risk:** Adjustment without structural change reproduces the captured Protocol in a new form. The same actors, the same rents, the same extraction — just at a different layer.

State counter-move:

- **Maintain the pressure:** Do not let adjustment become a strategy for preserving the status quo. Continue to build the periphery. Keep the incumbents competing.
- **Prevent re-capture:** Ensure that distributed generation, county markets and regional trade are open to new entrants — not captured by the same IPPs that dominated the centre.
- **Use the incumbents' capital:** Accept their adaptation, but on terms that serve the public interest. Require local content, technology transfer and competitive pricing.
- **Measure and monitor:** Track market concentration at every layer. If the incumbents are capturing the periphery, intervene.

7.4 Scenario Comparison

Dimension	Exit	Attack	Adjustment
Rentier behaviour	Disengage, sell, leave	Fight back, delay, reverse	Adapt, reposition, compete
Likelihood	Moderate	High	Moderate
State cost	Medium (stranded contracts, narrative risk)	High (arbitration, downgrade, political destabilisation)	Low–medium (transition costs, monitoring)
Time horizon	2–5 years	Immediate–5 years	3–7 years
State counter-move	Alternative finance, fast scale-up, narrative framing	Legal, financial, political and narrative preparation	Vigilance, anti-recapture measures, competitive safeguards



Dimension	Exit	Attack	Adjustment
Outcome for Kenya	Mixed (market opens, but capital-flight narrative)	Risky (could go either way)	Best case (if managed well)

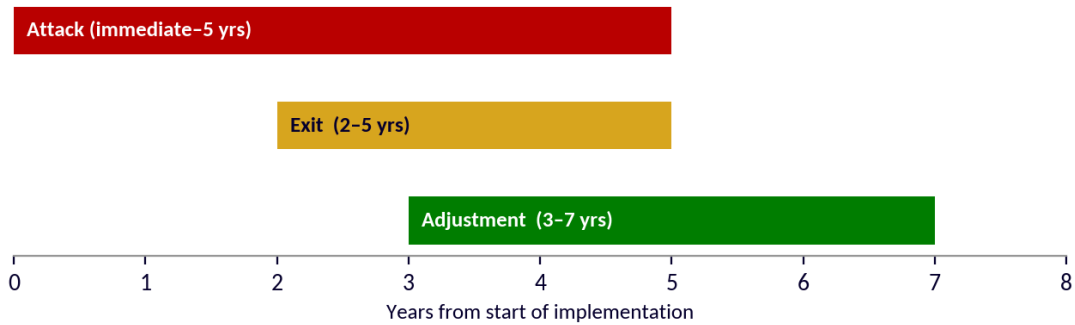


Figure 16. Indicative time horizons of the three responses. The windows overlap: the state must manage all three at once.

7.5 The Realistic Path

The most likely outcome is not one scenario but a combination of all three. Some IPPs will exit. Some will attack. Some will adjust. The state's job is to:

- **Prepare for attack** as the default response, because the incumbents have the most to lose and the most levers to pull.
- **Welcome adjustment** as the best outcome, but remain vigilant against re-capture at the periphery.
- **Manage exit** as a lesser evil, ensuring that alternative supply and finance are in place before the exit becomes visible.

The strategic key is speed. The faster the periphery scales — regional imports, distributed generation, county markets — the less leverage the incumbents have. The slower the periphery scales, the more time the incumbents have to organise, litigate and lobby.

The state must move faster than the rentiers can react.



8. Conclusion

The Kenyan government does not control the Kenyan energy sector in the way a sovereign state is assumed to control a strategic sector. It administers a system whose value-determining rules were written elsewhere and are enforced by contracts and institutions beyond its unilateral reach.

The evidence is in the numbers. In the year ending June 2024, KenGen supplied 59% of the electricity but received only 40% of the payments. The IPPs supplied 41% of the electricity but collected 60% of the payments. The IPPs' average price per kWh was KSh 21.16; KenGen's was KSh 9.78. For geothermal power from the same underground resource, IPPs charged KSh 17.28 per kWh; KenGen charged KSh 8.24. In 2020/21, Kenya Power paid KSh 49.2 billion in capacity charges to IPPs.

This is not a conspiracy theory. It is a structural description. And it is the classic Protocol move: crisis → external capital → conditionality → Protocol capture → value extraction. The state keeps the infrastructure and the risk. Private capital takes the high-value layer, protected by rules it helped write.

The question now is not whether this happened. It is whether Kenya can recapture the Protocol layer without triggering capital flight, legal chaos or political instability.

The answer is not to attack the rules directly. Contracts are locked. Markets are dynamic. The move is to start from the peripheries — regional trade, distributed generation, county markets, the unserved — and build alternatives until the centre becomes irrelevant. The 2026 Open Access Regulations are the first step. Regional imports from Ethiopia are the second. Distributed generation and county-level energy development are the third.

The same actors who captured the Protocol will respond. They will exit, attack or adjust. Kenya must be prepared for all three. The state must secure alternative finance, build legal defences, construct political coalitions and frame the narrative before the incumbents can organise. Speed is the decisive variable.

The counter-move is to take the incumbents at their word. If they believe in markets, then let markets exist at the periphery. If they believe in competition, let competitors enter. If they believe in choice, let consumers choose. They cannot oppose this without revealing that their "market" was never about markets — it was about a captured Protocol that guaranteed their rents.

Start from the periphery. Build the alternative. Prepare for the response. Let the centre rot.



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