

# An analysis of the challenges that affect performance of utility regulators in Kenya: A case study of energy regulatory commission

*Authors:* Oketch, Joseph Odongo

## ***Abstract:***

The broad objective of this study was to analyse the challenges affecting the performance of utility regulators in Kenya, whereas the specific objectives of the study were, to find out the effects of regulatory framework on performance of Energy Regulatory Commission, to determine how segregation of policy formulation, policy implementation and regulatory roles affected the performance of Energy Regulatory Commission, to examine how resource allocation and utilization affected the performance of Energy Regulatory Commission, and to establish the effect of regulatory knowledge within the energy sector on the performance of Energy Regulatory Commission. The last decade has seen a worldwide shift towards greater private sector participation in the infrastructure industries. Most governments are reducing their roles as owners and operators of facilities, causing new emphasis to be placed on their ability to establish sustainable regulatory arrangements. A key factor influencing the implementation of reforms is the ability of utility regulators to effectively perform regulatory functions in the presence of pressures from government ministries, the private sector, consumers, and other interest groups (Jamison and Berg, 2008).

Since the establishment of the various utility regulators in Kenya, concerns have been raised by the stakeholders on their performance, more so in so far as meeting their expectation is concerned. In trying to understand the basis of the problem, the study conducted a case study of the Energy Regulatory Commission to establish how it functions and carries out its daunting mandate. This was done through a census of all the staff of ERC and by use of semi-structured questionnaires to gather data on pertinent issues on sector regulations. Descriptive analysis of the data so gathered was conducted which led to the following conclusions and recommendations; Resource allocation to ERC has been insufficient hence hindering delivery of services to its stakeholders, the performance of the Commission has been challenged by the Energy Act which has failed to give the Commission enforcement powers thus for the energy regulator to perform to expectation, the policy makers should look into how to effectively fund its operations and overhaul the laws and regulations to give it more autonomy and enforcement powers in the sector it is regulating.