

**REPUBLIC OF RWANDA**



**RWANDA UTILITIES  
REGULATORY AGENCY**

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## **ANNUAL ACTIVITY REPORT FOR 2003**

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## 1. ACRONYMS

<b>CWS</b>	Clean Water Supply
<b>AFUR</b>	African Forum for Utility Regulators
<b>ARICEA</b>	Association of Regulators of Information and Communications for Eastern and Southern Africa
<b>ARTEL</b>	African Rural Telecommunications
<b>BNR/NBR</b>	National Bank of Rwanda
<b>CEDP</b>	Competitiveness & Enterprise Development Project
<b>CEPEX</b>	Central Public Investment and External Finance Bureau
<b>COGELGAS S.A</b>	Gisenyi Gas & Electricity Company
<b>DAL</b>	Dane Associates Limited
<b>ELECTROGAZ</b>	Etablissement Public de Production, de Transport et de Distribution d'Electricité et d'Eau
<b>ERA</b>	Electricity Regulatory Authority
<b>ERB</b>	Electricity Regulatory Board
<b>HF</b>	High Frequency
<b>IEPF</b>	Energy and Environment Institute of the French speaking Countries
<b>IP3</b>	Institute for Public– Private Partnership
<b>IPP</b>	Independent Power Producers
<b>MW</b>	Mega Watt
<b>MHZ</b>	Mega Hertz
<b>MINECOFIN</b>	Ministry of Finance and Economic Planning
<b>MINIJUST</b>	Ministry of Justice
<b>MININFRA</b>	Ministry of Infrastructure
<b>MTN RWANDACELL</b>	Mobile Telecommunications Network Rwandacell
<b>NARUC</b>	National Association of Regulatory Utility Commissioners
<b>NetTelAfrica</b>	Network Telecommunication for Africa
<b>PPA</b>	Power Purchase Agreement
<b>PPIAF</b>	Public and Private Initiative Advisory Facility
<b>PRSC</b>	Poverty Reduction Strategy Credit
<b>RERA</b>	Regional Electricity Regulatory Association
<b>RPA</b>	Rwanda Investment Promotion Agency
<b>RWANDATEL</b>	Rwanda National Telecommunications Company
<b>SINELAC</b>	Great Lakes International Electricity Company
<b>SMS</b>	Short Message Service
<b>SAT.PHONE</b>	Satellite Phone
<b>UEDCL</b>	Uganda Electricity Distribution Company Limited
<b>UEGCL</b>	Uganda Electricity Generation Company Limited
<b>UETCL</b>	Uganda Electricity Transmission Company Limited
<b>UHF</b>	Ultra High Frequency
<b>ITU</b>	International Telecommunications Union
<b>UPEGAZ</b>	Unit for the Promotion and Exploitation of Lake Kivu Gas Exploitation and Promotion Unit
<b>VHF</b>	Very High Frequency
<b>VSAT</b>	Very Small Aperture Terminal

## **2. PREAMBLE**

The Rwanda Public Utilities Regulatory Agency (RURA) is a National Public Institution endowed with a legal status and management autonomy. It has been established by Law n° 39/2001 of September 2001 and entrusted with the regulation of the following public utility services: telecommunications networks and/or services, electricity, water, waste drainage in residential and/or commercial premises, gas extraction and distribution; and transport of persons and goods.

While carrying out that mission, RURA essentially aims at improving the quality of service to consumers, promoting efficiency and effectiveness in service delivery and thus contributing to the development of the sectors by putting in place investment-friendly conditions and a fair competition in the sector of public services.

Over the year 2003, first year of its effective functioning, RURA experienced a lot of constraints including the lack of sectoral laws and other regulatory texts for most sectors to be regulated (only the law governing telecommunications exists so far) and the lack of skilled human resources.

Consequently, RURA concentrated its efforts in capacity building, in the development of its organisational structure that meets the needs of the institution as well as in the elaboration of some texts relating to the application of the law governing telecommunications. RURA also took part in the elaboration of the terms of reference pertaining to Acts (or Laws) in other sectors.

For the year 2004, the Regulatory Agency will pursue its activities by consolidation of internal capacity to respond efficiently to the requests of its partners, by completing the legal framework without which the regulation would be difficult. A specific emphasis will be put in liberalized sectors or those in the process of liberalization such as telecommunication and energy sectors.

It will also be necessary to continue the sensitization of all stakeholders about the regulation.

The concept of regulation being new in our country, the senior staff in office and Regulatory Board members attended various training programmes and undertook study tours to learn from the experience of more experienced institutions.

RURA could not have effectively started its activities without the continued support of Rwanda Government and international bodies including the ITU, the International Bank for Reconstruction and Development, and NARUC with funding from the USAID. We would like to express our sincere and profound gratitude to each and all of them and remain hopeful that they will keep extending their support to us as we still have a long way to go.

**NIYIBIZI Bonaventure**

**Chairperson the Regulatory Board**

### **3. INTRODUCTION**

The sector of public services is sometimes characterized by a low technical and financial performance leading to the poor quality of services. Besides, the cost of basic services is relatively high and thus impairs the economic development. In order to improve the situation, Rwanda Government has embarked on a series of reforms.

It has therefore introduced the participation of the private sector in order to bring in specialized expertise, an efficient and professional management of the service and new sources of capital for investment funding. It has also liberalized the sector of infrastructure to benefit by competition advantages.

Rwanda Government further set up a multisector regulatory agency with a view to improving good governance in the sector of public service and putting in place a regulatory framework that reduces the risks, reassures investors while protecting consumers' interests at the same time.

The law establishing the Regulatory Agency was enacted in in September 2001, but the organs of the Agency were only put in place in October 2002 while the very first senior staff members were appointed in January 2003. RURA is still a very young institution and this annual report mainly deals with the activities at the start in a particular context of inadequate resources.

## **CHAPTER 1: GENERALITIES**

### **1. ESTABLISHMENT AND MISSION OF THE REGULATORY AGENCY**

When discussing the public utilities privatisation issue, many people agree that involving the private sector can generate more efficiency and, most of the time, better services quality. However, there are some people who argue that the private sector can increase prices and make services inaccessible. They also say that the private sector can show no interest in expanding these services to poor consumers.

For this reason, an efficient regulatory system is essential and it is therefore necessary to develop a regulatory framework that is credible for investors, legitimate for consumers.

In the process of institutional capacity building to facilitate the privatisation of public utilities and also in order to ensure that the privatisation of public utility services does not result into the monopoly of the private sector, Rwanda has set up an independent agency to regulate public utility services: the Rwanda Public Utilities Regulatory Agency (RURA).

The Rwanda Public Utilities Regulatory Agency is a national institution enjoying a legal status and administrative and financial management autonomy. The law n° 39/2001 of 13 September 2001 established the Agency with a mandate to regulate the following sectors:

- ? Telecommunication networks and / or services;
- ? Electricity
- ? Water
- ? Waste management in residential and / or commercial areas
- ? Gas extraction and distribution
- ? Transport of people and goods

The main mission of the Rwanda Regulatory Agency is as follows:

- Ensure that certain utilities provide goods and services throughout the country to meet in transparency all reasonable demands and needs of all natural persons and organizations;
- Ensure that all utility suppliers have adequate means to finance their activities;
- Continually promote the interest of users and potential users of the goods and services provided by utilities so that there is effective competition when competition is introduced in each utility sector and protection of users from abuses of monopoly positions is ensured due to the fact that certain public utility sectors have a monopoly over the market;

- Facilitate and encourage private sector participation in investment in public utilities;
- Ensure compliance by public utilities with the laws governing their activities.

The Rwanda Regulatory Agency started functioning in 2002, following the appointment of the General Manager and Regulatory Board members.

## **2. RURA ORGANIZATIONAL STRUCTURE**

### **2.1. Supervision**

Pursuant to Article one of Presidential Order n°23/01 of 12 July 2003, RURA is placed under the authority of the Minister holding infrastructure within his/her remit.

### **2.2. The Regulatory Board**

The Board of Directors called "Regulatory Board" is the highest organ of the Regulatory Agency. It is composed of seven members appointed by a Prime Minister's Order on the basis of their competence, qualifications or professional experience in sectors relating to public utility services or supervision of the functioning of those services. The mandate of the members of the Regulatory Board is three years renewable only once.

### **2.3. Controlling Committee**

The control of the activities and operations of the Regulatory Agency is carried out by a controlling committee comprising three members appointed by a Presidential Order on the basis of their skills and knowledge. Their mandate is three years renewable only once.

### **2.4. The General Management**

The General Manager, appointed by a Prime Minister's Order for a three-year mandate renewable only once, is responsible for the daily management of the activities of the Agency. He/she attends the meetings of the Regulatory Board of which he/she is the rapporteur, but has no voting right.

## **CHAPTER II: ANNUAL REVIEW OF ACTIVITIES**

In order to successfully carry out its duties as a multi-sector Regulatory Agency, RURA has an organizational structure that raises its three main sectors of intervention to the status of commissions, namely:

- Communications
- Energy, water and Sanitation;
- Transport

### **1. REGULATORY BOARD'S MAIN ACHIEVEMENTS**

Since its creation in October 2002, the Regulatory Board, which is the highest organ of the Regulatory Agency, assigned itself the overall objective of doing its best to ensure an efficient regulation of all public utility services under the jurisdiction of the Agency.

To that end, RURA Board members agreed that their activities would focus on the following points:

- 1) To have appropriate laws and regulations
- 2) To have a good organizational structure of the Regulatory Agency;
- 3) To have sufficient and skilled human resources;
- 4) To ensure adequate financial resources to the Agency and ensure their good management.

The major decisions taken are in line with those objectives and may be put into three categories:

- a) Good organizational structure of the Agency and capacity building
- b) Regulatory texts
- c) Allocating financial resources to the Agency

#### **1.1 Good organizational structure and capacity building**

The major achievements are:

- Adoption of the organizational structure of the Agency;
- Approval of the job descriptions and recruitment procedures for the staff (to be recruited);
- Recruitment of senior staff in some sectors to be regulated and signing of their job contracts by the General Manager;
- Adoption of the training programme for RURA Board members and staff;
- Adoption of RURA Plan of Action for the year 2003;
- Regulatory Agency's joining the National Association of Regulatory Utility Commissioners (NARUC)



## **1.2. Regulatory texts**

The achievements are as follows:

- Review and finalization of 10 regulatory texts for the application of the law on telecommunication and the law establishing the Regulatory Agency, namely:
  - i) the Presidential Order relating to the functioning of the universal access fund;
  - ii) the ministerial order on the general conditions and pricing principles in interconnection agreements;
  - iii) the ministerial order determining the conditions to be incorporated in telecommunication and radio-communication licenses;
- Approval of consultants' reports on the recommendations aiming at amending the law on telecommunications and the law establishing the Regulatory Agency;
- Elaboration, in conjunction with ELECTROGAZ Board of a road map enabling RURA to follow-up the contract for the management of that company by Lahmeyer International

## **1.2 Ensuring financial resources to the Agency**

- Approval of the budget of the Agency for 2003 and 2004 fiscal years;
- Fixing radio-communication license fees;
- Granting and renewal of the licenses of various operators

## **2. ACHIEVEMENTS BY SECTOR**

Although the sectors are organised into commissions, some activities are common to different sectors. Those activities are related to general aspects.

To be mentioned first is the preparation of the draft organizational structure of the Regulatory Agency and elaboration of job descriptions for different job positions. This work was inspired by a study carried out by INTERNEWS, a consultancy firm that prepared and put in place the organs of the Regulatory Agency.

Secondly, another priority consisted in elaborating a plan of action and a budget for 2003 and 2004 fiscal years submitted to the Board for approval.

Lastly, the different sectors elaborated the terms of reference for various job positions to be staffed. In that context, the Agency opted for a progressive recruitment strategy. The specific activities detailed below for each sector mainly deal with capacity building, regulations, license or contract management and regulation of tariffs.

## **2.1. Communications sector**

### **2.1.1 Sector background**

Doing business in the communications sector is characterized by a constant change due to the swiftness of the technological development in that sector. In order to be able to meet the needs of the general public and enable it to take advantage of benefits of technology, public and private enterprises must provide quality services at a reasonable cost.

Therefore, in order to promote competition in that sector and expand services to the population as a whole, an institution entrusted with putting in place an efficient regulatory framework is required to meet governmental sector objectives, consumers' needs and make sure that competition in the sector is healthy. RURA, in particular the Communications Commission, is expected to play this role.

### **2.1.2 Achievements**

#### ***2.1.2.1. Legal framework***

The law n° 44/2001 organising the telecommunications was published on 30 November 2001. A important number of orders for the application of that law and of the law establishing the Agency (22 in total) and decisions of the Regulatory Board (9 decisions) did not exist at the time when the Agency was established. Because of the absence of basic legal instruments necessary for the accomplishment of its mission in the telecommunications sector, since its creation, RURA focused on complementing the legal framework of the communications sector.

In order to achieve its mission, RURA hired a consultant to elaborate these decrees. The terms of reference were elaborated in 2002 and GIDE LOYRETTE NOUEL consultancy firm awarded the contract on 10 April 2003.

At the time of signing the contract, the consultancy firm withdrew on the pretext that the workload was not proportional to the funds allocated to that study. After negotiations, the consultant accepted to draft 12 decrees and 5 decisions considered as essential for the functioning of the Agency. The contract was signed on June 5<sup>th</sup>, 2003.

So far, 10 draft orders have been completed and submitted to the Ministry of Infrastructure for approval. Two other drafts, one on special conditions to be incorporated in licenses, were considered to be non relevant, while the other one on radio-communications license fees has not been approved by the Technical Committee responsible for analysing the work of the consultant. The

consultant was therefore requested to redo the study in conformity with the technical committee recommendations. Unfortunately, the consultant withdrew again on the pretext that he did not have the required skills to carry out the study.

With regard to the 5 decisions of the Board drafted by the consultant, the Technical Committee has not yet spared the time necessary to look into those draft decisions.

### **2.1.2.2. License granting**

The law n°44/2001 organising Telecommunications provides for two types of licenses: telecommunications licenses and radio-communication licenses.

#### **2.1.2.2.1 Radio-communication licenses**

Over the year 2003, RURA granted the following radio-communication licenses:

##### **a. HF licenses**

These are licenses granted to radio equipment users operating in the frequency ranging from 3 to 30 Mhz.

##### **b. VHF licenses**

These are licenses granted to radio equipment users operating in the frequency ranging from 30 to 300 Mhz.

##### **c. UHF licenses**

These are licenses granted to radio equipment users operating in the frequency ranging from 300 to 3000 Mhz.

##### **d. VSAT licenses**

These are licenses granted to users wishing to have an independent network for satellite communications and data transmission.

##### **e. SAT- PHONE licenses**

These are licenses granted to satellite mobile telephone users, usually in places where Rwandatel public network or Rwandacell private network are still inexistent. The following table shows the number of licenses for each type of radio communication in 2003.

Type	HF	VHF	UHF	VSAT	SAT- PHONE	Radio broadcast	Total
New application	0	2	0	3	0	0	5
Renewed application	33	45	1	0	7	1	87
<b>Total</b>	<b>33</b>	<b>47</b>	<b>1</b>	<b>3</b>	<b>7</b>	<b>1</b>	<b>92</b>

#### f. Invoicing for radio-communication licenses.

The total amount of invoices for those licenses in 2003 amounts to **ninety nine million, five hundred and fifty thousand one hundred and eighteen Rwanda Francs (RwF 99,550, 118 )**. The total payment received amounts to **seventy four million four hundred and forty-one thousand six hundred and ninety-eight Rwandan francs (RwF 74,441,698)**.

#### 2.1.2.2.2. Telecommunication licenses

The law n° 44 /2001 organising Telecommunications, especially its Article 71 stipulates that “all licenses granted in accordance with the provisions of Law n° 8/92 of 19 November 1992 relating to the institutional reform of telecommunications shall remain in force until they are replaced with the licenses provided for by this law.” According to the same Article, licenses should have been issued one month after the coming into force of the law organising telecommunications.

Rwandatel s.a. and MTN Rwandacell Ltd obtained concessions on the basis of Law n°8/92 and those concessions had to be changed into licenses in accordance with Article 71 of the law organising telecommunication.

In addition, Cabinet, meeting in its session of 25 June 2003 decided to issue a cell phone telecommunication license to Rwandatel s.a. and a land-line telecommunication license to MTN Rwandacell Ltd as well as a license to Artel for rural telephony network.

Thus, in order to be in harmony with the provisions of Law n°44/2001 and comply with the Cabinet decision, the following telecommunication licenses were scheduled for the year 2003:

**a. Mobile and fixed telecommunications licenses for phone Rwandatel s.a.**

The process is ongoing in parallel with the privatisation process of Rwandatel. Again, RURA and the Privatisation Secretariat recruited a Consultant to elaborate those licenses.

The consultant has already submitted license proposals and a Technical Committee entrusted with making comments on those license proposals has already submitted its observations and comments and is waiting for consultant's feedback.

**b. Fixed and mobile telephone license for MTN Rwandacell Ltd.**

As mentioned earlier, MTN Rwandacell has a mobile telecommunications license issued in accordance with the law of 18 November 1992. That license needs therefore to be "updated" to comply with the provisions of the new law organising telecommunication.

Therefore, to comply with the Cabinet decision of 25 June 2003, there is need to prepare a fixed telecommunications license for MTN Rwandacel.

That exercise could not be carried out due to lack of staff but also because the decrees for the implementation of Law n<sup>o</sup>44/2001, especially the decree relating to the conditions to be included in telecommunication licenses had not yet been published.

**c. Data transmission license for TELE 10.**

The licences for TELE 10 was signed on the 1<sup>st</sup> of August 2001 well before the new law organising telecommunication came into force. In addition, in some places, the text of the license is not complete. This license also needs to be "updated" to conform to the provisions of Law n<sup>o</sup>44/2001. This exercise could not be carried out either, for the same reasons as in the above item (b).

**d. ARTEL's License.**

ARTEL introduced its license request in March 2001 and its license application files was submitted to RURA at the time of hand-over/take-over. Cabinet also defined the scope of activity of that company, namely the rural telephony. As the Agency was busy putting in place its organisational structure, staff and legal framework, the examination of ARTEL's request had been planned for 2003, but that was not actually done due to lack of enough staff but also because, as mentioned earlier, the legal framework was not yet completed.

## **e. Invoicing for telecommunication licenses**

In 2003, MTN Rwandacell Ltd was the only telecommunications operator for which RURA made out an invoice pursuant to the obligations provided for in Article 1 of its license, namely 2.5% of its net operating revenues. The total payment made to the Agency amounts to RwF 275,582,546. It is worth pointing out that the other fees relating to the spectral frequency used by MTN Rwandacell, namely US\$ 50,000 were paid into the Public Treasury Account.

### **2.1.2.3. Settlement of disputes relating to radio communication licenses.**

When the Agency took over from the Ministry of Infrastructure on 20 February 2003, it inherited many pending contentious files (45) relating to non-payment of frequency coordinating fees, some cases dating as far back as 1999. In 2003, 12 were settled and a bill could be made out.

### **2.1.2.4. Tariff regulation**

The tariff regulation is governed by Articles 29, 30, and 31 of the law organising telecommunications as regards the tariffs for supplying, network use and services and by Articles 39, 40 and 41 of the same law as regards interconnection tariffs. In 2003, RURA had two major problems with regard to tariff regulation: contentions regarding interconnection tariffs between Rwandatel s.a. and MTN Rwandacell Ltd and the request made by MTN Rwandacell to increase prices for some types of services and decreasing prices for others.

#### **a. Settlement of the problem relating to interconnection tariffs**

Pursuant to Article 39 of the law organising telecommunications, the national telecommunications company, known as Rwandatel s.a., on 03 September 2003, submitted to RURA the contentious case relating to interconnection tariffs opposing it to MTN Rwandacell Ltd.

To solve that case, the Agency requested each of the two companies to submit its proposal of interconnection tariffs (end-user fees for each network) as well as statistical and financial data on the basis of which the tariffs had been calculated.

At the end of 2004, none of the two companies had submitted its proposals.

Parallel to that request, keeping in mind the crucial importance of interconnection for business competition and in anticipation of the forthcoming privatisation of Rwandatel, RURA proceeded to identify an expert to solve them resolve that problem.

The Terms of reference for the consultant have been elaborated. A public tender has been advertised through the Privatisation Secretariat responsible for the privatisation of RWandatel. The Consultant selected by Rwanda Government to assist in that process submitted three CV of consultants. Unfortunately, none of the three proposed consultants seemed to meet the terms of reference and another public tender will therefore need to be advertised

#### **b. MTN Rwandacell tariff revision**

On 24 June 2003 MTN Rwandacell filed to Rwanda Utility Regulation Agency, a request for revision of its tariffs worded as follows:

- Reduction of monthly subscription fee for “Tariff Plus”
- Increases in the tariff rates at off-peak hours and peak hours
- Creation of a new international SM Service at the rate of RWF 100.

The reasons given by MTN Rwandacell for such increases are :

- Upward trend in import duties;
- Rise in prices for numerous consumer products;
- Depreciation of the Rwf against the US Dollar which is their main payment currency;
- Reminder by MTN Rwandacell that it has not made any change in tariff since 1998.

After analysing the file presented by MTN Rwandacell, the Regulatory Board, based on Article 29, paragraph 1 of Law n° 44/2001 approved implementation of the new tariff by MTN Rwandacell one month after publication in accordance with paragraph 9 of the same article.

#### **2.1.2.5. Numbering**

The law organising telecommunications especially in its Article 45, empowers the Regulatory Board to assign numbers, number ranges and number sequences. Such assignment should only be done in a transparent manner.

In the course of 2003, Rwanda Utility Regulatory Agency was informed of only one case requesting number. This request was filed by MTN Rwandacell in July 2003.

After examining the numbering plan existing in Rwanda, the figure “3” was attributed to MTN Rwandacell.

### **2.1.2.6. Participation in the process of privatising Rwandatel s.a.**

Privatisation of Rwanda Telecommunications Company, Rwandatel s.a. in short will be an important step to enable Rwanda Utility Regulatory Agency (RURA) to really play its role in the telecommunications' sector.

It is within this framework that RURA actively participated in the process of privatising this company. In the course of 2003, the Agency took part in several meetings consisting of analysing files and preparing comments on texts presented by the Consultant who assists the Government of Rwanda in the privatisation of Rwandatel.

### **2.1.2.7. Training**

Regulation is a very recent field in Africa. Therefore, to build human capacities in the regulation of the communications' sector, the Head of the sector conducted, since his entry into office, a study trip to Uganda and Morocco to acquire experience in Regulatory agencies more experienced than ours. He also attended a workshop/seminar on regulation of telecommunications organised par Net Tel Africa in Botswana as well as another workshop / seminar organised in Cairo (Egypt) by ARICEA (Association of Regulators of Information and Communications for Eastern and Southern Africa) on fair competition and tariff setting in the area of Information and Communication Technologies. He further attended a training course in the United States of America in the "Institute for Public-Private Partnership (IP3)" on the regulation of the Telecommunications' sector.

### **2.1.3. CONSTRAINTS**

Major constraints encountered by RURA and which hampered achievement of the objectives it had set itself in 2003 in the area of communications include lack of staff and lack of texts to implement the law governing telecommunications.

### **2.1.4. PERSPECTIVES**

To fully start operating and play its role in the communications' sector RURA should, among others, undertake these urgent actions:

1. to speed up the recruitment process so as to put in place the necessary human resources;
2. to put in place the remaining orders to implement the law governing telecommunications as well as those decisions of the Board which are not yet drafted;
3. to devise a strategic plan of the Agency for the next three years;
4. to put in place practical modalities to prepare decisions on licence applications and other permits;



5. to improve communication between RURA, operators in the sector as well as the public in general;
6. to encourage contacts between RURA and other regulatory agencies at regional and international levels.

## **2.2. ENERGY, WATER AND SANITATION SECTOR**

### **2.2.1. Sector background**

Under Vision 2020 and aware of its role as a driving force the energy has to play in the country's socio-economic development, the Government has undertaken, about 10 years ago, a reform process of the energy sector through liberalisation of the economy in general and privatisation of certain public utilities including those relating to energy. It is within this framework that, for the success of this programme, economic and technical regulation in the sub sectors of electricity and gas is essential.

Water and sanitation services are part of the basic economic infrastructures. However, they are still characterised by a low coverage rate, water utility is supplied by public monopolies with a capacity lower than the demand. This, sometimes, creates an informal circuit of independent middlemen (water retailers) who offer a low quality service at high costs. More particularly, the sanitation sector is not well structured so as to attract private operators. Laws are either nonexistent or obsolete.

The Regulatory Agency then faces the challenge of contributing to the regulation of that sector in a bid to contribute to the Government's objectives of Government and also to enable people to get a better quality service at fair costs.

The sector of Energy, Water and Sanitation comprises 4 sub-sectors which can be grouped, for the purpose of this report, into two large components : one relating to Energy and comprising Electricity and Gas and the other devoted to Water and Sanitation. Apart from activities relating to training, there are also those activities related to preparation of sector laws essential for drafting a regulatory framework that will enable the Regulatory Agency to fulfil its mandate in the Sector, and that relating to negotiation and monitoring of contracts.

### **2.2.2. Energy**

#### **2.2.2.1. Activities conducted**

These activities can be grouped into three large components namely : activities relating to regulation, negotiations and monitoring of contracts as well as to capacity building in the area of regulation.

### **2.2.2.1.1. Regulation**

At energy level, there are still no laws governing electricity and gas. In a bid to get the legal instruments required for effective regulation, the Regulatory Agency drew the attention of the Ministry holding energy within its remit, namely the Ministry of Infrastructure on the need to expedite the process of drafting such laws.

#### **a) Electricity Act**

In collaboration with MININFRA and PRSC, terms of reference for a consultant to draft such a law were prepared. PRSC pledged to avail the funds needed through Competitiveness and Enterprise Development Project.

#### **b) Gas Act**

There is a bill on gas drafted in 2001 but refers to a model of production sharing contract in gas exploitation. With the time, the concession contract option was adopted instead. Therefore, the bill had to be revised within such a perspective and the Regulatory Agency has been actively associated in the drafting of the terms of reference to hire a consultant who will help draft that Act.

### **2.2.2.1.2 Negotiations and monitoring of contracts**

#### **a. Electrogaz Management Contract**

As part of sector restructuring, the Government of the Republic of Rwanda opted to entrust the management of Electrogaz to a private operator. At the end of procedures of international invitations to tender, Lahmeyer International was awarded the contract. The organs of the Regulatory Agency which took office at the time of contract negotiations were regularly associated to such negotiations.

In this management contract to extend over five years, the Regulatory Agency is responsible for monitoring the compliance of the operator with the contractual terms. Also after the signature, a thorough analysis had to be conducted to ensure that starting up conditions are fully met.

#### **b. Negotiations of the PPA and of the Concession Contract for Lake Kivu Methane Gas Exploitation**

Since January 2003, the Israeli-Norwegian group, Dane Associates Limited, launched formal negotiations with the Government of the Republic of Rwanda to produce electricity from the Methane Gas reserves of Lake Kivu. This group that plans to produce 200 MW of electricity by the year 2020 as an

Independent Power Producer (IPP) in different phases would start with a production plant of 30MW on Kibuye site. Negotiations mainly focused on that first stage. The Rwandan Negotiating Team set up by the Minister for Infrastructure of which the Regulatory Agency is part comprises representatives of other Ministries and institutions directly involved in this field. Proper negotiations immediately started and various negotiation phases took place. It should be noted that with the entry into office of Lahmeyer International, as new manager of Electrogaz, the Rwandan Negotiating Team got reinforced and the expertise of Lahmeyer International in the area of IPP soon proved itself. In fact, the latter organized from 18 to 21 November 2003, a seminar on IPP for the Rwandan Negotiating Team.

Not only this seminar allowed to improve the PPA document but also pointed out several weaknesses in the document to be addressed. Reformulation of the document was done by an expert from Lahmeyer International in collaboration with the Rwandan Negotiating Team and the resulting reformulated document was presented to DAL.

Another operator interested in exploitation of Lake Kivu methane Gas reserves is COGELGAS S.A., a Rwandan Company (Gisenyi Gas & Electricity Company) which signed a Memorandum of Understanding with the Government of Rwanda in September 2001. This company plans to produce not only electricity from gas but is also interested in the production and distribution of the gas likely to be used both in local industries and in households in a view to meet their energy requirements.

Formal negotiations with this company have not yet started as the company preferred to first conduct experiments on Gisenyi site in a bid to test, on a lower scale, Lake Kivu gas exploitation and processing technology. Test rigs started in Mid-December 2003 and results are awaited.

#### **2.2.2.1.3 Training**

As the field of regulation is still a new concept in our country, a study trip was conducted to the Uganda Electricity Regulatory Authority (ERA), from 12 to 13 March 2003 to learn from Ugandan experiences in this domain. The Rwandan delegation, which also included the Head of the Energy Sector, discussed electricity issues with various actors intervening in the sub sector in Uganda. Therefore, apart from ERA, the three autonomous companies of production, transport and distribution of electricity, UEGCL(Uganda Electricity Generation Company Limited), UETCL(Uganda Electricity Transmission Company Limited) and UEDCL(Uganda Electricity Distribution Company Limited) were visited.

From 31 March to 4 April 2003, the Regulatory Agency responded to the invitation of the Energy and Environment Institute of the French Speaking

countries – IEPF – by sending two delegates to a specialised training module on “Tariff Regulation for Power Infrastructure Networks” organised in Lome, Togo.

Upon the invitation of USAID, the Regulatory Agency also sent a delegate to attend two conferences on regulation held in Windhoek, Namibia, from 16 to 19 June 2003. These conferences jointly sponsored and organised by NARUC and RERA, in collaboration with other partners focused on: First Annual Energy Regulatory Conference for the Global Regulatory Network, from 16 to 17 June 2003, and Southern Africa Forum for Energy Regulators, Utilities & Stakeholders, from 18 to 19 June 2003, respectively.

From 21 to 25 October 2003, the Regulatory Agency, further to the contacts with the regional office for the Public and Private Initiative Advisory Facility (PPIAF) in Nairobi received a scholarship for five people of the Regulatory Agency to attend a seminar on electricity regulation. Four employees of the Agency along with a member of the Regulatory Board attended that seminar.

#### **2.2.2.2 Constraints**

At the level of energy sub sectors, constraints encountered over the last year are twofold:

- Lack of sectoral laws to govern the sub sectors to be regulated by the Regulatory Agency,
- Lack of enough staff in different sub sectors.

##### **a. Lack of sectoral laws**

The Regulatory Agency needs laws on Electricity (Electricity Act) and Gas (Gas Act) as well as their implementing texts. Without these legal instruments, the Regulatory Agency would not be in a position to regulate the related utilities.

Negotiations for the Electrogaz Management Contract as well as those concerning exploitation of Lake Kivu methane gas reserves, for power generation, were conducted in the absence of adequate legal and regulatory frameworks.

As mentioned earlier, steps to draft these laws on electricity and gas were undertaken towards the end of last year but this may still take time to get these laws so as to enable the Regulatory Agency to fulfil its mandate.

## **b. Lack of enough staff**

The two sub sectors of Energy only had a staff reduced to only one senior executive hired in January 2003. This lack of staff accounts partially for the failure to implement certain activities planned in 2003.

### **2.2.2.3 Perspectives**

#### **a. Electricity sub sector**

To increase people's access to more electric energy at affordable cost through :

- A sustained capacity building in electricity regulation;
- Elaboration of a law on electricity (Electricity Act) as well as other laws;
- Statutory instruments;
- Encouragement for private participation in the supply of electricity services, more specifically in monitoring Electrogaz management contract;
- An inventory and a data base of all electrical energy potential within the country.

#### **b. Gas sub sector**

Developing the gas sector, more particularly through exploitation of methane gas (and by-products) reserves for power generation by private operators. To achieve this, the following strategies are to be implemented:

- Capacity building for the staff in the area of gas regulation;
- Elaboration of a law on gas (Gas Act) as well as other statutory instruments;
- Facilitating the participation of private operators in generating power from Lake Kivu methane gas reserves.

### **2.2.3 Water and Sanitation**

#### **2.2.3.1 Activities carried out**

##### **2.2.3.1.1. Regulation**

At its outset, the Regulatory Agency was faced with the absence of sectoral laws on the basis of which it was to develop its regulatory instruments. Bills on water and sanitation code already existed but required a thorough revision as the context had further developed. The Regulatory Agency also began to collaborate with Ministries responsible in defining terms of reference for a Consultant who should work on the Water bill. The document was granted non-objection from the Donor and the contract awarding is projected early 2004.

### **2.2.3.1.2 Monitoring Management Contracts**

#### **a. Electrogaz Management Contract**

Among its remit, Electrogaz is responsible for the production and distribution of potable water in all towns of the country. As earlier mentioned, the Regulatory Agency took part in the negotiations of the contract and has started to monitor this contract in accordance with its terms.

#### **b. In the rural area**

In accordance with Presidential Orders (n°292/04 and 293/04) of 15/05/1985 and the decentralisation policy, the management of water infrastructures in rural areas is under the responsibility of districts where they are implemented. But there are a few initiatives to entrust such management to private operators. Contacts with rural water services were made to see how they can be regulated so as to protect beneficiary people against possible abuse.

#### **c. Waste management**

A meeting is planned with those responsible for sanitation in the Kigali City Council to draw up an inventory and statement of the status of repair. One can notice that a problem linked to the lack of laws (sanitation code) and regulation and also participation of private operators which is really not effective as they only participate in the removal of waste. This sector needs to be organised and reformed. Some initiatives of associations can be noted in the processing of waste (composting to produce manure and fuels). It is also difficult, within the current conditions, to say if there really is any sanitation service offered to citizens.

### **2.2.3.1.3 Training**

To build capacities in regulation, the Head of Water and Sanitation Department attended a training course organised by the Institute for Public-Private Partnerships, in August 2003 in Washington, on incentive based regulation. He also attended, with his colleagues of the Energy and Transport sector, a training seminar on electricity regulation organised by PPIAF (Public Private Infrastructure Advisory Facility) and ERB (Electrical Regulatory Board) in Nairobi (Kenya) and AFUR (African Forum for Utility Regulators). This seminar which brought together senior executives from East, Southern Africa and Ghana regulatory institutions, focused on economic regulation principles.

### **2.2.3.2. Constraints**

At legislation level, the Agency is faced with lack of up-to-date sector laws organising the sub sector. This is all the more restrictive as the sector has several partners. There should be a law specifying the limits of powers.

From an operational point of view, there is lack of adequate staff to achieve all the activities as planned.

### **2.2.3.3. Perspectives**

In the area of Water and Sanitation, the Agency plans to:

- ✍ Collaborate in putting in place adequate tariff policy that fairly protects the interests of stakeholders;
- ✍ Introduce competition in the sector by granting legal status to independent service providers;
- ✍ Develop rules for judicious regulation and mechanisms to monitor consumer satisfaction;
- ✍ Collaborate in putting in place effective and efficient rules and regulations in matters relating to the use of water resources and provision of water and sanitation services;
- ✍ Strengthen structures and build their capacities;
- ✍ Develop a strategic plan and the plan for its implementation;
- ✍ Contribute to improvement in the quality of services by developing standards and incentives to meet such standards;
- ✍ Develop incentives for operators to be efficient and to monitor their performances;
- ✍ Enhance regional and international co-operation with other Regulatory Agencies for data exchange and information.

## **2.3. Transportation Sector**

### **2.3.1. Sector background**

The transport sector in Rwanda faces lack of appropriate legal framework likely to serve as a factor to boost transport development. In fact, the regulation in force is not up-to-date, which does not facilitate regulation of this sector. Apart from ONATRACOM, in general the transportation sector is characterised by a lack of operators with adequate means enabling them to soundly compete in this domain. As for lake transport, it is not developed and is faced with lack of a legal framework essential for the better regulation in this sub sector.

## **2.3.2. Activities carried out**

### **2.3.2.1. Hand-over of documents**

Some regulation tasks were traditionally fulfilled by the Ministry holding Transport within its remit. A hand-over document was prepared to transfer some files to the Regulatory Agency. Contacts were made with MININFRA to agree on services to be transferred to the Regulatory Agency. Effective transfer was delayed for lack of adequate staff in the transport sector to cater for certain services including issuance of transport licences, regulation of driving schools, etc.

### **2.3.2.2. Preparation of the working document on the transportation sector regulation**

Given that regulation is a new field in Africa and in our country in particular, realities of the Rwanda transportation sector had to be adapted to the situation prevailing in other countries while staying within such limits as allowed by the law governing the Agency. It is within this framework that a working document was elaborated. This document identifies those services to be regulated within the current context and explains the difference between technical regulation and economic regulation.

### **2.3.2.3. Adjustment of tariffs for the transportation of people**

During the last six months of 2003, the tariffs of the department of passenger transport were readjusted. The rise in oil prices was the key factor of this readjustment. As usual, the institution in charge of regulation and the Directorate of Transports in the Ministry of Infrastructure as well as transportation operators (Associations of Transporters, Transport Companies ) had to meet in order to agree on passenger tariff per Km. This is how the new tariffs were applied within the City of Kigali and on major roads of the country.

### **2.3.2.4. Training**

From 2 to 20 June 2003, the Head of the Transportation Sector travelled to USA where he attended a training course in the *Institute for Public –Private Partnerships*. This training focused on how to master the procedures of regulation and management of commissions.

From 21 to 25 October 2003, the Head of the Transportation Sector also attended, with his colleagues from the Energy, Water and Sanitation Sector, a training seminar on electricity regulation organised by PPIAF (World Bank) and ERB (Electrical Regulatory Board) in Nairobi , Kenya.



### 2.3.3. Constraints

Postponement of the transfer of documents relating to regulation which are currently handled by the Directorate of Transport has contributed to the failure to implement certain related activities.

### 2.3.4. Perspectives

The Regulatory Agency plans to organise transportation services by regulating the sector at economic and technical levels.

#### ✍ **Economic level**

- ✍ to avoid oil price fluctuations which heavily affect transportation prices, we are going to continually carry out a regulation of transport costs.
- ✍ to put in place an economic model to regulate transport prices.

#### ✍ **Technical level**

- ✍ Technically, the Agency is to regulate automotive technical control so as to reduce accidents caused by the technical conditions of vehicles;
- ✍ The Regulatory Agency will play a key role in reducing road accidents especially those related to passenger transportation vehicles (Buses, Minibuses and taxis);
- ✍ The functioning of driving schools leaves much to be desired. We are going to organise them by approving those that meet the required conditions, and also by monitoring their functioning and regulating their tariffs.

#### ? **Lake Transportation**

Lake transport is not well organised. The Regulatory Agency will need to put in place an appropriate regulatory framework in order to ensure that lake transportation is safer and more beneficial to the population.

Finally, it goes without saying that the regulatory mission cannot achieve the expected results unless an adequate legal framework is in place. We therefore plan to draft shortly and in collaboration with the Ministry holding transport within its remit, a bill governing transport.

## **2.4. Administration and Finance**

### **2.1.4 Finances**

#### **2.4.1.1. Forecasts**

**The resources** used by the Agency were only made up of Government subsidies, including direct transfers and support funds from the World Bank. That situation was due to the fact that the year 2003 was the starting year.

Spending forecast had not been carried out because the Agency was not operational before January 2003 whereas the spending had been incurred in 2002.

#### **2.4.1.2. Achievements**

**Resources actually received** have been much more important than expected because the Regulatory Agency collected receipts amounting to five hundred sixty-two million nine hundred and thirty-nine thousand four hundred and seventy-six Rwanda Francs (RwF 562,939,476) including two hundred and fourteen million seven hundred and eighty thousand eight hundred and five Rwanda Francs (RwF 214,780,805) of unpredicted own receipts, one hundred and thirty-four million six hundred and sixty-three thousand seven hundred and eleven Rwanda Francs (RwF 134,663,711) of grants from GoR, sixty-two million three hundred and ninety thousand two hundred and forty-five Rwanda Francs (RwF 62,390,245) of balance from the 2002 budget and one hundred and fifty-one million one hundred and four thousand seven hundred and fifteen Rwanda Francs (RwF 151,104,715) from the CEDP.

The total spending amounting to three hundred and forty-eight million one hundred and fifty-eight thousand seven hundred and seventy-one Rwanda Francs (RwF 348,158,771) includes the support from a World Bank project of one hundred and fifty-one million one hundred and four thousand eight hundred and fifteen Rwanda Francs (RwF 151,104,815), a Government grant amounting to one hundred and thirty-four million six hundred and sixty-three thousand one hundred and seventy-seven Rwanda Francs (RwF 134,663,177) and the remainder of the funds for the task force in charge of putting the Agency in place for a total amount of sixty-two million three hundred and ninety thousand two hundred and forty-five Rwanda Francs (RwF 62,390,245).

#### **2.4.1.3. Constraints**

The resources allocated by MINECOFIN did not take into account the real needs of the Regulatory Agency, as the latter did not exist when the national budget was elaborated.

Actual spending does not correspond with the budget neither structurally nor in terms of volume.

It has been necessary to make some unforeseen spending in order to make the agency operational (see budget and spending statements in Annex II)

Due to lack of an accountant and accounting software over the 2003 fiscal year, the financial statements could not be made available in specified deadlines; however, they should be ready before the end of 2004.

#### **2.4.1.4. Perspectives**

Since the beginning of 2004, the budget is elaborated by the General Management and adopted by the Regulatory Board, according to the Law establishing the Agency thus resolving the problem faced in 2003 relating to the inadequacy between the budget and actual needs.

Increasing financial autonomy, supported by its own receipts, should enable the regulatory agency to achieve the independence that is essential for the efficiency of its activities.

#### **2.4.2. Human Resources and Administration**

##### **2.4.2.1. Activities planned**

According to the Plan of Action for 2003, the following activities were planned:

- Developing the Plan of Action of the Department
- Planning Human Resources
- Elaborating the Administrative Procedures Manual
- Elaborating the Terms of Reference for a Consultant in Recruitment
- Updating staff files
- Drafting a staff review model
- Establishing a training programme
- Following up the implementation of the training programme

##### **2.4.2.2. Activities achieved**

###### **2.4.2.2.1. Staff planning and recruitment**

Staff needs assessment has been carried at the level of each department and approved by the Regulatory Board. The Human Resources Department ensured the coordination of that activity, prepared the terms of reference for the selection of a consultancy firm to help Agency with the recruitment process and elaborated the post advertisement document.

On the whole, the Agency employed 8 senior staff and 15 support staff over the year 2003.

#### **2.4.2.2.2. Management of staff administrative files**

Staff administrative files are well kept and updated.

#### **2.4.2.2.3. Senior staff training**

According to the training programme for the year 2003, 11 training sessions have been organised for senior staff members and Regulatory Board members.

#### **2.4.2.2.4.1.1. Staff Statutes and Administration, Finance Procedural Manual**

The statutes governing RURA staff has been drafted. It will need to be approved by the General Management and further adopted by the Regulatory Board.

The Terms of Reference for the elaboration of the Procedural Manual have been elaborated and received the non-objection of the World Bank.

#### **2.4.2.3. Constraints**

As a multisectoral institution, the Regulatory Agency finds it difficult to recruit local competent senior staff, especially in technical sectors.

#### **2.4.2.3. Perspectives**

The Regulatory Agency could recruit expatriate skilled senior staff.

It could also put in place efficient mechanisms that could facilitate the recruitment process and formalize them in its administrative procedural manual.

The Agency will need to improve the skills of all its staff through short term courses and training sessions.

The training programme will focus on priorities in all fields and at all levels.

## **CONCLUSION**

Introduction of competition in traditionally monopolistic sectors goes hand in hand with the promotion of the regulatory process as a means to ensure the balanced functioning of those more and more open contracts.

By putting in place an independent regulatory agency, Rwanda Government aimed at equipping itself with an instrument entrusted with enforcing the standards and efficiently contributing to the improvement of the delivery of public utility services.

The Regulatory Agency will thus ensure a better access to services by encouraging efficient management, transparency and fairness in the setting up of tariffs.

However, there is need to work out solutions to the constraints already identified in order to enable the Regulatory Agency to carry out its mission independently and in a transparent manner.