

# **ENERGY REGULATION BOARD**

**Enforcement Procedure  
Presented by  
Kafula Mwiche**

# INTRODUCTION

- ✴ Based on the conditions in the licences
- ✴ In the licence these conditions fall under
  - ✴ Enforcement and Compliance
  - ✴ Licence suspension and revocation
  - ✴ Appeals

# PURPOSE

- ✦ To ensure that the Board's powers are exercised in a manner that is fair, professional and unbiased
- ✦ To provide consistency so that no one is suspected of advancing a personal vendetta

# INSTITUTING ENFORCEMENT

- ✱ Instituting Enforcement shall follow a decision or an Order of the Board.
- ✱ In the event that the Board is not able to meet the Chairman shall authorise the commencement of enforcement but the matter shall be tabled before the subsequent Board Meeting for ratification.

# CONDUCT OF PERSONNEL

- ✱ An inspector of the ERB may at any reasonable time enter a Licensee's premises and inspect any equipment and documents in order to fulfil the mandate of the ERB.

## Conduct cont'd

- ✱ Any inspector entering any such area shall use a reasonable approach and shall be accorded full and free access and any necessary assistance in the course of inspecting any plant, equipment and records therein.

# AUDITS AND/OR INSPECTIONS

- ✱ Take samples of any substance or equipment or articles manufactured, produced or stored on the premises.
- ✱ Make copies or take extracts from any such book, accounts or records kept on the premises;

## Cont'd

- ✱ Inspect machinery, equipment, appliances, meters, fittings, and apparatus and record the condition
- ✱ Inspect any common carrier facility, plant or installation and record the condition.
- ✱ Based on the findings of the audit/inspection, the TD shall make recommendations to the ED for any appropriate corrective/punitive measures who shall cause the matter to be tabled at the subsequent Regulatory Board Meeting.



# ENFORCEMENT NOTICE

- ✱ A written notice to the licensee specifying condition(s) in the license have not been complied with. An order to remedy the non compliance within a specific time period.
- ✱ If the Licensee obeys within the indicated time, the Licensee shall notify the ERB and the ERB shall confirm the compliance after investigation

## Cont'd

- ★ If, after the notice period, the Licensee is still in violation then the ERB will:
  - (i) assess the Licensee for payment of a fine and/or penalty or;
  - (ii) take measures to either suspend or revoke the Licence.

## Cont'd

- ✱ If within the notice period for rectification of violation, the Licensee sends a written response with an explanation of reasons for not complying with the order, the ERB shall investigate and determine the relevant actions of the Licensee. The ERB may postpone deadline to a later date.

# SPOT FINES

- ✱ An Inspector may, where satisfied that any person has committed a breach of the provisions of the ERA, or the licence conditions or of any Standard for which the penalty does not exceed ten thousand penalty units.

# PROCEDURE

- ✱ The Inspector shall, inform the person against whom the demand is made of the right to admit or dispute the liability
- ✱ An Inspector receiving the payment of a fine shall give a receipt to the person making the payment

## N.B

- ✱ In cases where the ERB does not have the capacity or competence to enforce, assistance shall be obtained from other competent government agencies or duly authorised persons
- ✱ A licensee may in addition have the licence suspended or revoked by the Board
- ✱ Any offence not covered in the Schedules would be brought to the Board for determination