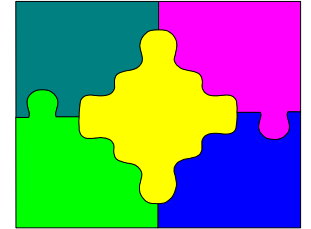


ERB LICENSING PROCEDURE



PRESENTATION TO THE ERB/PAPUC/NARUC PARTNERSHIP HARRISBURG, PENNSYLVANIA

Kafula Mwiche - Assistant Legal Counsel- July 2005

Basis for Licensing



⌘ Section 8 of the Energy Regulation Act Cap 436 makes it an offence for any person to operate an undertaking without a licence from the ERB, any person who contravenes this is liable for a penalty of 500,000 units, a unit is K180

Licensing Procedure



- ⌘ Any person or company may apply to the Board for a licence to establish and operate an undertaking.
- ⌘ The licence application shall be made in triplicate in the form set out in part 1 of the first schedule of the Energy Regulation (Licensing) Regulations Statutory Instrument no. 2 of 1998.
- ⌘ Payment of K50,000 for the Form

Procedure Cont'd



key information requested for on the application form includes:

- ⌘ 1. The full name of company
- ⌘ 2. Certificate of Incorporation
- ⌘ 3. List of Directors and shareholders
- ⌘ 4. Type of activity applied for
- ⌘ 5. A listing of the applicants business operations
- ⌘ 6. Description of the location of the operations.

Application Must be submitted with



1.) for organisations already operating:

- ⌘ Audited financial statements of the most recent complete financial year.
- ⌘ Management accounts for the periods falling in the current financial period up to the time of application.
- ⌘ Business plan for the next 3 years showing projections of sales, cash flow statement, operating statement, balance sheet and evidence of financial capability to sustain operations.

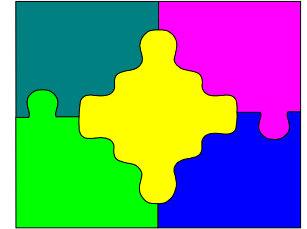
Application Must be submitted
with Cont'd



FOR ORGANISATIONS NOT YET OPERATING:

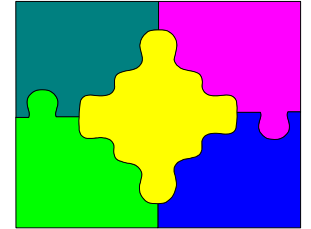
- ⌘ Business plan for the next 5 years showing projections of sales, cash flow statement, operating statement and balance sheet
- ⌘ Proof of funds i.e. bank statement in the name of organisation

Dependant on the activity technical
information must also be submitted



- ⌘ File opened
- ⌘ File to LC within 24 hours to assess whether activity requires licensing under Cap 436.
- ⌘ Within 24 hours –LC must refer to DIOR and DER.
- ⌘ If activity is exempt from licensure LC must notify ED who within 2 days will notify applicant.

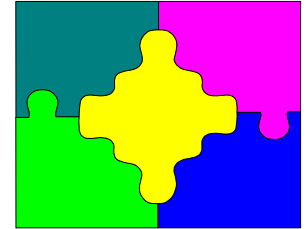
DIOR's Role



⌘ carries out a technical assessment. Within three days of receipt of file. If period inadequate the ED must be informed immediately.

⌘ Report of findings to ED with a copy to LC and DER.

DER's Role



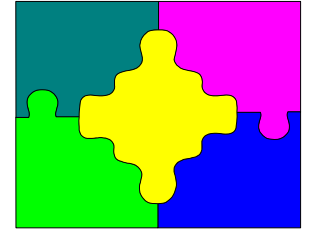
⌘ DER carries out financial and economic assessment of the application.

- ☒ Financial capability of applicant

- ☒ Assess application fee payable

⌘ *A report on financial findings to be rendered to ED with a copy to LC and DIOR. (within three days)*

ED



⌘ Convene a meeting (within two days of receipt of Financial Report)

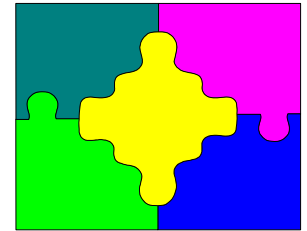
☒ DIOR

☒ DER

☒ LC

Consideration of Reports rendered.

ED(cont'd)



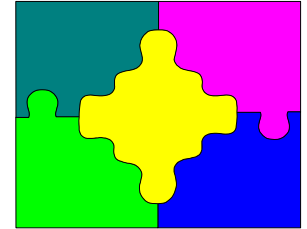
- ⌘ Letter to applicant communicating the assessment.
- ⌘ Assessment must be paid in cash or by Bank Cheque within seven days.
- ⌘ DFA to advise ED on receipt of payment.
- ⌘ ED instruct LC to draft Gazette Notice.

Gazette Notice



- ⌘ Inviting objections from the public with thirty days
- ⌘ Tabled before the Board requesting approval to publish

Objections

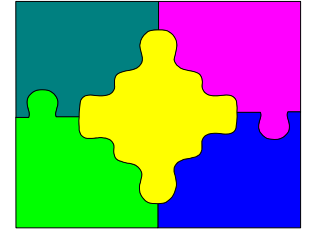


⌘ Prescribed form –third schedule of Energy Regulation (Licensing) Regulations and with the prescribed Objection Fee- 5000 fee units.

⌘ Consideration of objections

- ⌘ Applicant must be furnished with the a copy of the objection
- ⌘ The applicant may reply to the objection.
- ⌘ A report of the findings will then be made to the Board.
- ⌘ Dependant on report a public meeting can be convened.
Both parties will be given opportunity to submit their cases.
- ⌘ Parties requiring to respond shall also be given the opportunity.

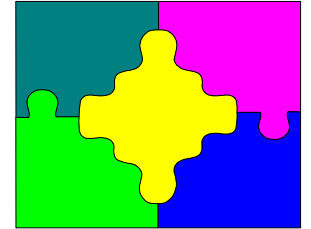
Determination of Applications



⌘ An application for a license will be approved or denied within thirty days after the conclusion of the hearing.

☒ Determination of applications

- ☒ 1. Public interest
- ☒ 2. Merits of any objection

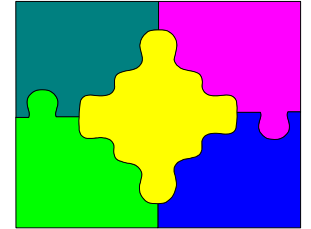


Where no objection

The Board will determine the application taking into account:

- ⌘ The extent to which the public interest will be served

Renewal of License

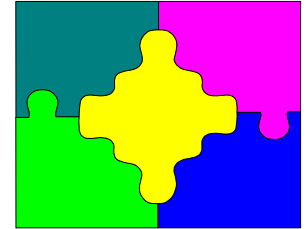


⌘ Licenses are issued for a specific period

- ☒ Can be renewed

- ☒ Payment of licence renewal fee

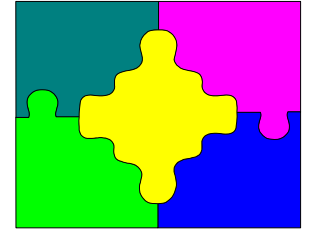
License revocation



- repeated contravention of the Act
- contravention of condition in license that is expressed to lead to suspension or revocation.
- subject of complaints.

- ☒ The Board may with the Minister's consent
 - By notice in writing revoke the license
 - Refuse to renew the license on expiry.

Appeal



- ⌘ The aggrieved may appeal to the High Court
- ⌘ Appeal within 30 days from the date of receiving notification of Board's decision on revocation or not to renew a licence.
- ⌘ The License will be deemed to be in force till final determination of the matter by the Minister.