

# ENERGY REGULATION BOARD

**PROPOSED AMENDEMNENTS TO THE ENERGY  
REGULATION ACT CHAPTER 436 OF THE LAWS  
OF ZAMBIA AS AMENDED BY ACT NO 23 OF  
3003.**

**PRESENTED BY KAFULA MWICHE  
TO THE ERB/PUC/ NARUC PARTNERSHIP  
HARRISBURG, PENNSYLVANIA 20<sup>TH</sup> JULY 2005**

# SECTION 3A

- The Board shall Determine the terms and Conditions of service of the Executive Director.
- The current provision of the Act to the effect that the conditions of service of the Chief Executive, Board Secretary and staff of the ERB shall be determined by the Board with the approval of the

## SECTION 4 (1)

- There shall be a Secretary to the Board who shall be appointed on such terms and conditions as the Board may determine"
- The Board should be given the full mandate to determine the conditions of service of employees.

## SECTION 4 (3)

- The Board may appoint on such terms and conditions as it may determine such other staff as it considers necessary for the performance of its functions under this Act."
- The Board should be given the full mandate to determine the conditions of service of employees.

## SECTION 6 (j) (i)

- Make rules and orders for the effective regulation of licensed undertakings
- The justification that it would ensure that undertakings do not defy any rules and orders promulgated by the regulator as it would be empowered by law to make these rules and orders, it would strengthen the role of the regulator

## SECTION 6 (j) (ii)

- A person who wilfully disobeys any rule or order in contravention of this section commits an offence and shall be liable on conviction to a fine of not less than fifty thousand penalty units but not exceeding two hundred thousand penalty units, or to imprisonment for a term of not less than six months but not exceeding seven years or to both the fine and imprisonment
- To ensure compliance rules and orders of the Board must be backed by sanction.

## SECTION 10 (5)

- “Any person who is aggrieved by any refusal of the Board to issue a licence may apply to the High Court for a review within thirty days of receiving the notification.”
- The High Court can only review decisions of an organ such as the ERB when such decisions are made as part of the organ exercising its statutory functions.

# SECTION 15 (2) AND (3)

- It is proposed that subsections (2 and 3) be amended by the removal of the requirement for the Minister's consent prior to revocation or refusal to renew the licence.
- The justification for this proposal is the need to enhance the independence of the Board in its regulatory decision- making.



# SECTION 21

- Amounts payable as fees under this act shall be payable to the Board.
- A regulatory institution like the ERB has to be autonomous and one of the key elements of regulatory autonomy is premised on is fiscal independence in order for it to discharge its mandate in a professional manner, which engenders confidence building.

# SCHEDULE

## section 2

- It is proposed that the members of the Board should be appointed by the Minister following recommendations of a committee tasked with the specific function of identifying qualified persons for appointment and subject to ratification by Parliament.
- The justification for this proposal was that this would allow for transparency in the appointment process and would negate the question of allegiance.

## SECTION 3 (1)

- It is proposed that Board Members be appointed on staggered terms for a period of four years from date of appointment and shall be eligible for appointment for one further term of three years
- The justification for this proposal was that this would allow for continuity on the Board as not all the members' terms in office would expire at once. Further, the increase in tenure would give adequate time for Board members to settle in the job

## SECTION 3 (1)

- It is proposed that this section which provides for a members continuity in office for three months after expiry of the term be deleted
- The reason for this proposal is that the section would defeat the proposed policy of the staggered terms.

# CONCLUSION

- The foregoing are proposals that have yet to be presented to the Board. However the said amendments would go a long way in making the ERB more effective in carrying out its mandate