GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 56 OF 2024

The Energy Regulation Act, 2019
(Act No. 12 of 2019)

The Energy Regulation (Energy Fund) Regulations, 2024

IN EXERCISE of the powers contained in sections 43, 44 and 54 of the Energy Regulation Act, 2019, the following Regulations are made:

1. These Regulations may be cited as the Energy Regulation (Energy Fund) Regulations, 2024. Title

2. In these Regulations, unless the context otherwise requires — Interpretation

"administrative penalty" means twenty-five percent of the unremitted amount for every month or any part of the month that amount remains unpaid;

"bank" has the meaning assigned to the word in Banking and Financial Services Act, 2017; Act No. 7 of 2017

"Board" has the meaning assigned to the word in the Act;

"emergency" has the meaning assigned to the word in the Electricity Act, 2019; Act No. 11 of 2019

"Energy Regulation Board" has the meaning assigned to the words in the Act;

"Fund" means the Energy Fund established under section 43 of the Act;

"licensee" has the meaning assigned to the word in the Act; and

"Secretary to the Treasury" means the person appointed as Secretary to the Treasury under the Constitution. Cap.1

3. The Fund shall vest in the Energy Regulation Board and be administered and managed by the Energy Regulation Board. Vesting and administration

Copies of this statutory instrument can be obtasined from the Government Printer, P.O.Box 30136, 10101 Lusaka. Price K8.00 each

Purposes of Fund

4. The Fund shall, in addition to the purposes set out under section 43 of the Act, be used—

(a) to stabilise the price of petroleum products; and

(b) for the importation of—

(i) power as a result of an emergency; and

(ii) strategic petroleum products.

Monies payable into Fund

5. (1) The following levies shall be paid in accordance with section 43 (2) (d) of the Act:

(a) a strategic fuel reserve levy at the rate determined by the Energy Regulation Board per litre sold on selected petroleum products; and

(b) an electricity strategic levy to be paid by licensees in the electricity sub-sector in a manner determined by the Energy Regulation Board.

(2) A licensee shall pay into the Fund, on every tenth day following the end of each calendar month, all fees, charges and levies payable into the Fund, except that the Energy Regulation Board may, extend the time period for making payment into the Fund, which period shall not exceed twelve months or the validity of a licence.

(3) A licensee that fails to remit a fee, charge or levy in accordance with subregulation (2) shall be liable to pay an administrative penalty to the Energy Regulation Board.

(4) A licensee that under-declares a fee, charge or levy payable into the Fund by at least twenty-five percent commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

Disbursement from fund

6. (1) There shall be paid from the Fund—

(a) monies for approved activities in accordance with regulation 7;

(b) the legal and other expenses incurred in relation to the Fund or in the exercise by the Energy Regulation Board of the rights, powers and authority vested in the Energy Regulation Board under these Regulations; and

(c) any other expenses as approved by the Secretary to the Treasury for the purposes of the Fund.

(2) Subject to section 43 (1) of the Act and regulation 4, the Secretary to the Treasury shall approve a disbursement of monies from the Fund.

(3) Subject to the other provisions of these Regulations, the Energy Regulation Board shall disburse monies from the Fund for approved activities, taking into account the following:

(a) priority works and available funds, as shall ensure equitable distribution of the funds;

(b) the overall policies and priorities of the Government, and the need to effectively utilise resources;

(c) approved work plans and budgets; and

(d) the performance by various industry players in the energy sector.

(4) There shall be paid to the Energy Regulation Board, from the Fund, a collection fee of five percent of monies collected and paid into the Fund in any financial year, for the purposes of managing and administering the Fund.

Activities financed from Fund

7. (1) Subject to section 43 of the Act and regulation 4, the following activities shall be financed from monies in the Fund:

(a) capital expenditure or construction of energy infrastructure that may increase or restore installed capacity;

(b) the importation of emergency power;

(c) the importation of strategic petroleum products;

(d) the establishment of infrastructure that promotes rural development in the energy sector;

(e) the undertaking of studies that shall inform policy decisions for the development of energy sector activities; and

(f) any other activities incidental to, or connected with, the development of the energy sector.

(2) The Secretary to the Treasury is responsible for approving the activities referred to under subregulation (1).

Monthly returns

8. (1) A licensee shall, every tenth day following the end of each calendar month, submit monthly returns of fees, charges and levies collected and paid into the Fund as the Energy Regulation Board may from time to time determine.

(2) Despite subregulation (1), a licensee shall, where a licensee does not collect any fees, charges or levies in a particular month, submit a monthly return of business transacted in a month in accordance with subregulation (1).

(3) A licensee that fails to submit a monthly return in accordance with subregulations (1) and (2), shall be liable to a penalty in accordance with section 50 of the Act.

Workplans and budget

9. The Secretary to the Treasury shall, on the recommendation of the Minister, approve the workplans and budget for the purposes of the Fund.

Investment reserve

10. (1) Subject to the approval of the Secretary to the Treasury, the Energy Regulation Board may set aside at least ten percent of the monies of the Fund collected in a fiscal year that are not immediately required for the purposes of the Fund in order to grow and sustain the Fund.

(2) The investment reserve may be used for the purposes set out under section 43 of the Act and regulation 4 as may, on the recommendation of the Minister, be approved by the Secretary to the Treasury.

Fund accounts

Act No.1 of 2018

11. Subject to the Public Finance Management Act, 2018, the Board shall approve the opening and operation of such number of bank accounts as the Board considers necessary for the effective and efficient management of the Fund at a commercial bank as the Board may determine, in which the money received for the purposes of the Fund is deposited and kept.

Financial year

12. The financial year of the Fund shall be a period of twelve months ending on 31st December in each year.

M. Chikote,
Minister of Energy

Lusaka
9th September, 2024
[MOE.DPI/52/2/23]