



Operationalisation of the Open Access Regulation

On 19 July 2024, the Zambian government, through the Ministry of Energy enacted the Electricity (Open Access) Regulations, SI No 40 of 2024 (the “**Open Access Regulations**”). The Open Access Regulations are a legal framework that allow qualified participants to access and use the electricity transmission and distribution system in Zambia for a specified period. These Regulations provide for, among others, the application process for open access, transmission and distribution charges and the functions of Zambia Energy Supply Corporation (“**ZESCO**”) and the Energy Regulation Board (“**ERB**”). The regulations ensure fair access to the electricity market for various stakeholders, including consumers with a consumption capacity of at least 1 Megawatt.

While transactions under the Open Access Regulations are in progress, it is crucial to address key issues that may hinder the effective implementation of the Regulations. These include:

Lack of a pricing methodology

The regulations provide that a qualifying participant can lodge their application for open access with either a Transmission Network Service Provider (“**TNSP**”) or Distribution Network Service Provider (“**DNSP**”) using Form I set out in the Schedule of the Open Access Regulations. According to the Electricity Act No.11 of 2019, a DNSP is a licensee responsible for operating, maintaining and developing a distribution system within a specified area, while the TNSP is mandated to develop, maintain and operate a transmission network in the area where the transmission provider operates.

Currently, ZESCO is the dominant TNSP and DNSP in Zambia.

The application to the TNSP or DNSP must include additional documents, such as: a statement detailing the participant's available infrastructure, a declaration of funds to demonstrate financial viability, and the volume of electricity intended for transmission. Applications can be submitted either physically or electronically.

Despite the established application process, there is currently no price methodology that has been implemented to determine the fees associated with using the transmission or distribution system. The Open Access Regulations mandate that the Energy Regulation Board develop a pricing methodology to establish the fees that a licensee may charge for access to these systems. Without this pricing methodology, qualifying participants are left to negotiate with TNSP or DNSP, thereby creating uncertainty on the possible access fees or the criteria that will be used to calculate these fees. This lack of clarity may impede

the effective implementation of the Open Access Regulations.

Additional framework and guidelines

A critical requirement under the Open Access Regulations is the development of guidelines and procedures for the operation of transmission and distribution systems. This mandate lies with the system operator, a role currently fulfilled by ZESCO. These guidelines are essential for ensuring safety, efficient operation and providing protocols for emergency situations. It is important to note that according to Regulation 21(2) of the Open Access Regulations, the time frame for the submission of these guidelines and procedures for approval to the Energy Regulation Board is within 180 days from the Regulations' commencement, that is 180 days from 19 July 2024. The timeline may be intended to provide the system operator with sufficient time to develop the guidelines.

Conclusion

The Open Access Regulations represent a progressive initiative by the Zambian government that has the potential to drive

economic growth and attract new investments. By addressing the factors mentioned above, Zambia can work towards fully realizing the benefits of these regulations, ultimately fostering a more competitive and efficient electricity market. This transformation could enhance reliability, promote innovation, and contribute to the overall development of the energy sector in Zambia.

MAY and Company

759, Glass House, Independence Avenue,
Woodlands Roundabout.

Lusaka, Zambia. Tel: +260211250580.

info@mayandco.co.zm | www.mayandco.law

MAY
AND COMPANY