

BEFORE THE BOTSWANA ENERGY REGULATORY AUTHORITY SITTING  
AT LOBATSE

FILE NO: CBERA 7/3/54

IN RE: BOTSWANA OIL LIMITED

## BOTSWANA OIL LIMITED APPLICATION FOR A 50% PETROLEUM PRODUCTS IMPORT LICENCE

Before the Botswana Energy Regulatory Authority Board, having read the documents and having considered the submissions made during the Public Inquiry, on this 08<sup>th</sup> day of April 2021, decided as follows;

### DECISION

The decision of the Authority is as follows;

1. Botswana Oil Limited has made a case warranting the granting of a licence with a market reservation condition.
2. The application of Botswana Oil Limited meets the statutory requirements inter alia financial capability and technical capability.
3. Botswana Oil is granted a licence to import and supply 25% of the volume of petroleum products consumed in Botswana as opposed to the 50% sought in the application.
4. The Authority shall monitor the Applicant for 18 months to ensure compliance with the threshold, failure of compliance with the threshold will result in licence revocation.
5. The Authority to give other importers a grace period to readjust their contractual obligations if any.
6. The Authority to promptly engage the Ministry of Energy to facilitate the issuing of a statutory instrument necessary for operationalizing and enforcing the 25% licence granted.
7. The Authority to engage Competition and Consumer Authority to conduct a market study in order to fully address competition issues emanating from the application of Botswana Oil Limited regarding the 50% market reservation applied for, after which study the Authority will further reconsider the 50% market reservation for import of petroleum products applied for by BOL.
8. Botswana Oil Limited may if dissatisfied with this decision, appeal to the High Court within 30 days from the date of receipt of the decision.

### SUMMARY OF ASSESSMENTS

It is trite law that when an application is received, it is assessed in accordance with section 39, 40 and any other relevant provisions of the BERA Act depending on the issues arising from the application.

Section 39 embodies two sacred requirements being; evidence of financial and technical capability to execute the activity applied for. The aforementioned evidence as presented by the applicant has been summed as follows;

#### **a) Financial Capability**

The financial assessment involved Qualitative and Quantitative analysis of the information provided in the form the bank statements, bankroll/guarantee by the government and financial projections.

The Authority through its analysis has determined that Botswana Oil Limited is financially capable of importing the volumes of petroleum products as articulated in the application.

#### **b) Technical Capability**

In assessing technical capability of Botswana Oil Limited, the Authority considered the requisite skills, experience possessed and storage capacity of the facilities used/managed by the applicant.

The Authority arrived at a conclusion that BOL has the technical capability because;

- I. BOL has been operating in the petroleum industry for 7 years hence it possesses the requisite experience.
- II. The storage facilities managed by BOL has been deemed adequate in light of the fact that BOL will be direct bridging in some instances.

#### **c) Economic assessment**

The economic assessment of the application was done in accordance with section 40 (2) which requires the following;

- I. Whether the issuing of a licence will bring any benefits to the national economy and to consumers in the energy sector.
- II. Whether the applicant can provide the service in a safe and suitable manner.

The Authority made the following determinations when establishing if the aforementioned requirements have been met;

- I. BOL is established as a strategic entity which its function amongst others is to ensure meaningful citizen participation in the petroleum sector hence the granting of a licence is an enabler to addressing barriers of entry by citizens into the petroleum sector.
- II. The Authority determined that the granting of the licence is necessary to anchor the business cases of key security of supply infrastructure projects which are of national interest i.e. construction and expansion of national storage facilities and XLT Project.
- III. BOL has demonstrated to the Authority its contribution to the transport sector by citing the potential value to citizen transporters and Botswana Railways. The Authority is convinced that at the core of ensuring security of supply is to also have citizens play a meaningful role in the industry and it is convinced that BOL has a key mandate of ensuring citizen participation in the oil industry.
- IV. BOL has provided sufficient evidence of the existence of established agreements between itself and various international petroleum products suppliers from which it continues to source the petroleum products.

### OTHER CONSIDERATIONS

- I. The Authority made a determination that the application has the potential to give rise to issues of competition because a decision favourable to the applicant had the potential of creating a dominant player in the market therefore the application was accordingly referred to the Competition and Consumer Authority as per section 62 (1) of the BERA act.
- II. The Competition and Consumer Authority advised the Authority that it needs to conduct a market study (without set timelines) however the Authority may consider a phased approach without creating a dominant player from the onset.
- III. The Authority in light of section 4 of the BERA Act adopted the advice of Competition and Consumer Authority (CCA) of the "phased approach" and decided to grant BOL a 25% licence with a condition that the licence will be reviewed upon completion of a study by CCA.



Geoffrey S. Serebolo  
Chairperson of the BERA Board