



NATIONAL ENERGY AUTHORITY

Papua New Guinea's Independent Regulator
of the Electricity and Gas Industry of Energy Sector

Appeals Panel Guideline

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NATIONAL ENERGY AUTHORITY

Appeals Panel Guideline



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A. Introduction

The Authority as the regulator for the energy industry in Papua New Guinea has the responsibility of regulating the electricity supply services which includes the issuance of electricity undertaker licences including related safety and technical standards approvals, directions and decisions.

The Authority in its endeavour to maintain the integrity of its decisions as the regulator of the electricity supply services seeks to ensure that its decisions are just and fair by the provision of an administrative dispute resolution process through the development of this Guideline.

The Appeals Panel is established under the *National Energy Authority Act 2021* (as amended) (NEA Act) to receive and process the appeal application against decisions made in accordance with Part IV of the NEA Act.

This Guideline outlines the Appeals Panel's roles and responsibilities as to how the appeals are received, managed and decided. This Guideline is a procedural guide to assist the Appeals Panel and the Appeals Panel Secretariat to process appeal application lodged with it in accordance with the NEA Act.

The appeals process is a statutory appeals process that provides an administrative dispute resolution avenue for an applicant to appeal a decision made by mandated persons under Part IV of the NEA Act before seeking redress in the National Court (judicial review).

1. PURPOSE

The purpose of this Guideline is to provide a clear process that guides the Appeals Panel and the Authority.

The Guideline has been put in place to:

Ensure that all stakeholders in the electricity supply services understand the proper process for lodging an appeal application or requesting a review of a decision made under Part IV of the NEA Act; and

Provide the time-frame within which an appeal application should be dealt with regards to the lodgement and the review period; and

Outline the form and manner in which the appeal application will be lodged.

The Appeals Panel Process Flow Chart is annexed as Annexure 3 of this Guideline to assist as a visual aid.

2. APPLICABLE LAWS

For purposes of this Guideline, the applicable laws referenced are:

The Constitution of the Independent State of Papua New Guinea

The National Energy Authority Act 2021

The Electricity Industry Act Chapter 78

The Independent Consumer and Competition Commission Act 2002 (ICCC Act 2002)

The Boards (Fees and Allowances) Act 1995.

3. LEGAL BASIS

The Appeals Panel is established by Section 42 of the *NEA Act*.

Section 121 (2) (f) of the *NEA Act* allows for the Appeals Panel Committees established under the *NEA Act* to develop governing rules to be enacted as regulations. However, the development and enactment process require a longer period of time, therefore, the option taken is a "necessary and convenient" approach to develop this Guideline to be approved by the Board pursuant to Section 11 (1) of the *NEA Act*.

B. Decisions of the Authority

Consistent with Section 41 Decisions of the Authority on regulatory matters, in order to be effective and binding must be in writing and Gazetted.

The decision comes into force on the date of the Gazette Notice and is subject to what is provided in the Gazette Notice.

All Appeals to be dealt with by the Appeals Panel under Part IV of the *NEA Act* are regulatory matters and must comply with the requirements under Section 41. Therefore, the Appeals Panel is only authorised to deal with appeals that are effective and binding.

C. Appeals Panel

1. ESTABLISHMENT

The Appeals Panel is established under the *NEA Act*¹. Its main functions and procedures are outlined in this Guideline which is consistent with Part II, Division 6 and Part IV, Division 6 of the *NEA Act*.

2. COMPOSITION

The Appeals Panel is made up of three members appointed by the Board, one of whom is the chairman:

- i. a practicing engineer in the energy industry nominated by the Institute of Engineers of Papua New Guinea;
- ii. a practicing lawyer nominated by the Papua New Guinea Law Society; and
- iii. a practicing accountant nominated by the Certified Professional Accountants of Papua New Guinea.

The Board endorses the nominees and appoints the Chairman of the Appeals Panel². The members of the Appeals Panel are entitled to receive fees and allowances³.

3. DECLARATION OF OFFICE

Although the *NEA Act* is silent on Appeal Panel members making a declaration and secrecy, to maintain the integrity of the Appeals Panel, it is important that Appeals Panel members must make a declaration of office and secrecy in the presence of a duly qualified witness in accordance with the *Oaths, Affirmations and Statutory Declarations Act 1962* and deliver that declaration to the Appeals Panel Secretariat. The declaration of office is included in this Guideline as Annexure 4.

4. DUTIES

The Appeals Panel members when carrying out their duties as members of the Appeals Panel, should take into consideration the following:

i. Time

Ensure to deal with the appeal application in a timely manner.

ii. Strict Rules

The strict rules should focus on fact findings alone and they do not apply strict rules of the Courts.

iii. Discrimination

Should not institute any process that may operate directly or indirectly to discriminate against Parties to the Appeal Application.

iv. Fairness, Equity and Impartiality and Independence

The Appeals Panel members must act with fairness, equity and impartiality and independent

1 Section 42 (1), *NEA Act*

2 Section 42 (2) & (3) of the *NEA Act*

3 *Boards (Fees and Allowances) Act 1995*.

of other interests, including those from their respective professional body that nominated them. If a member of the Appeals Panel is under duress from a professional body they should declare it, in writing, to the Chairman of the Appeals Panel and the Appeals Panel Secretariat.

The Appeals Panel must observe the following values consistent with the *NEA Act* and Values:

- Conflict of interests⁴;
- Obligations to preserve Confidentiality⁵;
- Secretary of Information⁶;
- False Information⁷;
- Authority not to discriminate⁸;
- National Energy Authority (NEA) approved values [honesty, integrity, accountability, respect, wisdom and responsibility];
- Protection from Personality⁹;
- Indemnity¹⁰;
- Corruption¹¹.

5. ROLES

The main role of the Appeals Panel is to receive and deliberate on appeal application which this Guideline outlines the process to be undertaken by the Appeals Panel when it reviews the appeal application lodged against a decision of the mandated decision makers under Part IV of the *NEA Act*.

Although the *NEA Act* does not expressly provide, the management of the Appeals Panel is a collective responsibility of the Appeals Panel. An individual member of the Appeal Panel's view(s) does not represent or should not be taken to represent the Appeals Panel's decision.

All members of the Appeals Panel are expected to support the decisions, actions and positions of the Appeals Panel regardless of their individual opinions.

Where a member of the Appeals Panel strongly disagrees with the view of the Appeals Panel, that member may either;

- minute his/her view,
- choose not to vote for the decision, or
- choose to resign (extreme circumstances).

The members of the Appeals Panel when deliberating on an appeal application are expected to:

- act in good faith;
- cooperative collectively;
- be impartial;

4 Section 42(4) *NEA Act*

5 Section 52(2) (a) *NEA Act*

6 Section 124 *NEA Act*

7 Section 123 *NEA Act*

8 Section 125 *NEA Act*

9 Section 32 *NEA Act*

10 Section 130 *NEA Act*

11 Section 115 *NEA Act*

- Be fair and consider the issue based on merit;
- Open minded, transparent and be efficient;
- have due regard to the principles of natural justice.

The decisions of the Appeals Panels should be impartial. An Appeal Application pending review by the Appeals Panel should be treated on its merits, with an open mind and without prejudices arising from any previous contact between the Authority. There should be a full and objective evaluation of the facts or evidence provided in support of an Appeal Application. Issues of conflict of interests should be identified and declared at the outset to ensure there is impartiality.

Before the Appeals Panel reviews an Appeal Application, the members of the Appeals Panel must also complete a Declaration of Impartiality to declare they have no conflict of interest in the matter. The signed declaration of impartiality must be provided to the Appeals Panel Secretariat. The Declaration of Impartiality form is attached as Annexure 5 in this Guideline.

However, if there are grounds for reasonable suspicion of bias, prejudice, or conflict of interest against a member of the Appeals Panel ('Member') relating to the appeal application. The Member in question must disclose to the Chairman of the Appeals Panel and the Appeals Panel Secretariat. The Member may be disqualified from reviewing the Appeal Application in extreme circumstances and appoint a member from the member's professional body¹².

The Grounds for reasonable suspicion of bias, prejudice, or conflict of interest against a member may include the following:

- v. is not a family member; or
- vi. does not have a close personal relationship; or
- vii. is not involved in any personal hostility; or
- viii. does not have a business or an employment relationship.

6. SECRETARIAT

In accordance with the *NEA Act*, the Authority will perform the role of the Secretariat to the Appeals Panel. On administrative level, the Salaries and Condition Monitoring Committee approved organisational structure for the NEA, the Complaints Handling Branch of the Legal & Compliance Division is mandated to provide administrative support as the Secretariat to the Appeals Panel. This support includes the following:

- maintains an appeal application register to track all appeal application lodged with the Appeals Panel; and
- ensuring that all appeal applications are received, recorded and monitored; and
- detail screening of the lodged appeal application and prepare submission relating to the appeal application for the Appeals Panel; and
- convening the meetings of the Appeals Panel; and
- compile and keep record of relevant information and/or documents relating to the appeal application for the Appeals Panel; and
- provide submission on behalf of the Appeals Panel to the Board of Appeals Panel's decision; and

12 Section 42 (4), *NEA Act*

- facilitates communication with concerned parties (including the applicant) on behalf the Appeals Panel, on any procedural notices during the Appeals Panel's review of the appeal application including the final decision and reasons; and
- keep record of the Appeal Panel meetings; and
- perform any other duties as instructed by the Appeals Panel and the Authority relating to the processing of appeals.

D. Review Process

1. LODGEMENT OF APPLICATION

An applicant may lodge an Appeal Application with the Appeals Panel through the Secretariat regarding a decision made under Part IV of the *NEA Act*.

2. GRACE PERIOD FOR LODGEMENT OF APPLICATION OUTSIDE OF PRESCRIBED PERIOD

An applicant must lodge an Appeal Application with the Appeals Panel within the prescribed period specified in Section 109(2) (d) of the *NEA Act* with the flexibility of filing out of time but not beyond 30 days after Decision has been made¹³.

For the avoidance of doubt, if an applicant lodges an Appeal Application outside the prescribed period, they must provide reasons for this and the Appeals Panel may, using its discretion, decide to accept the extension of the Appeal Application lodgment but keeping in mind the 30 days limitation.

3. PERSON AUTHORISED TO LODGE AN APPLICATION

A person authorised to lodge an application shall be a person aggrieved by a decision of the Authority made under Part IV of the *NEA Act*. The Applicant may lodge an Appeal where the Appeals Panel is satisfied that the Applicant is an aggrieved person as prescribed under Section 109(1)(a),(b),(c) and (d) of the *NEA Act*.

The aggrieved persons are as follows in relation to who is authorised to lodge an application:

Ministers Decisions

- i. An applicant whose license is the subject of issue, variation of the terms and conditions, transfer agreement or refusal of an application.
- ii. An electricity undertaker for review of a decision to suspend, cancel and variation of terms and conditions of the licence,

Decisions/Directions by Authorised Officers and Electricity Inspectors

- iii. A person whom a direction is given by an Authorised Officer under Part IV, Division 4;
- iv. A person who is affected by a decision for review of the decision of the decision of the authorised officer or an electricity inspector to disconnect an electricity supply.

4. DECISIONS SUBJECT TO REVIEW BY THE APPEALS PANEL

An Application to review regulatory decisions made under Part IV of the *NEA Act*, shall only be made against the following decisions as prescribed under Section 109(1) of the *NEA Act*:

- a. decisions by the Minister in respect of:
 - i. issuance on the terms and conditions of the licence under Section 68; or
 - ii. to vary the terms and conditions of the electricity undertaker's licence under Section 71; or
 - iii. the agreement to transfer the licence or refusal to grant an Application/Licence under Section 72; or

13 Section 43 (3), *NEA Act*

- iv. to suspend or cancel the electricity undertaker's licence under Section 76; or
- v. exemptions to licences provided under Section 111.
- b. decision to give directions by the Authority or the authorised Officer under Part IV, Division 4, sub-division 1 of the *NEA Act* in respect of:
 - i. disconnection of electricity supply under Section 97; or
 - ii. the power to make works or installation safe under Section 98; or
 - iii. the power to require information under Section 99.
- c. decisions made by an electricity inspector to disconnect an electricity supply as provided under Section 101 of the *NEA Act*.

5. FORM AND MANNER OF APPLICATION

An Appeal Application for review by the Appeals Panel of a decision made under Part IV of the *NEA Act* shall -

- a. be in writing; and
- b. set out the decision or part of the decision to which the appeal application relates; and
- c. set out in detail the grounds on which the applicant seeks review and the decision sought on the review; and
- d. be accompanied by any information that the applicant considers should be taken into account by the Appeals Panel on the review and be lodged with the Appeals Panel.
 - i. in the case of a decision relating to a license or application for a license, within 10 days after return notice of decision is given to the electricity undertaker or applicant; or
 - ii. in the case of decision to give direction, within 10 days after the direction is given; or
 - iii. in the case of a decision to disconnect an electricity supply, within 10 days after notice of disconnection is given or, if notice is not given, within 10 days after the supply is disconnected, or, in any of these cases, such longer period as the Appeals Panel may allow.

6. PROCEDURE FOR THE REVIEW OF A DECISION

Where an Appeal Application is made for review of a decision of the Authority, the Appeals Panel may¹⁴;

- a. give a copy of the Appeal Application to the Authority, the Minister and to any other persons directly affected by the Appeal Application; and
- b. invite them to join as a party to the review and make submissions on the matter, the subject of the review in a manner within the period specified by the Appeals Panel, accompanied by any documentary information, additional material or evidence as the Appeals Panel may allow; and
- c. invite all parties (including the applicant) to make initial submissions on the matter the subject of the review with the period specified by the Appeals Panel, accompany by any documentary information, additional or evidence, as the Appeals Panel may allow, that they

¹⁴ Note to user: Although the *NEA Act* does not expressly provide for the Appeals Panel procedures, current industry practice have been adopted in this Guideline.

may be taken into account by the Appeals Panel; and

- d. ensure that all parties have an equivalent time to make initial submissions; and
- e. ensure that each party has an opportunity to review and respond to any initial submissions made by any party.

When deliberating over the applications, the Appeals Panel shall observe the following¹⁵

- a. is only to consider the information that was available to the decision makers under Part IV of the *NEA Act*, when it made the decision that is the subject of the Appeal Application for review; and
- b. is not bound by the rules of evidence; and
- c. may adopt such other procedures as if it sees fit.

It must be noted that the Minister may intervene (personally or by counsel, or other representatives) only for purposes of introducing evidence or making submissions on any questions relevant to the public interest relating to electricity supply services safety and technical standards pursuant to Part IV of the *NEA Act*¹⁶.

Additionally, the appeals panel must process all applications within a period of four (4) weeks from the date of lodgement¹⁷. Within the four (4) weeks of the review period, the Appeals Panel may stay the operations of a decision consistent with Section 109(3) of the *NEA Act*.

The decisions of the Appeals Panel shall be communicated by way of a written notice to the Applicant and must also include the reasons for the decision¹⁸.

The following procedures are provided for clarity and structure to the review period.

i. Appeal Lodged

Application is received, reviewed and authenticated before it is registered as an appeal. The respondent or person(s) affected by the appeal are notified, given a copy of the Appeal Application and requested to provide a response by way of a submission to be lodged with the Secretariat.

ii. Appeals Panel Notified

The Chairman and members of the appeals panel are notified and provided copies of the application and responses from the respondent/person affected by the application. The Appeals Panel undertakes a review and evaluation and advises the Secretariat to convene a meeting for members to deliberate over their consideration.

iii. Appeals Panel Deliberations

The Appeals Panel convenes to deliberate over the review and evaluation, and also agrees on a review schedule towards achieving the review decision. The Appeals Panel may convene more than one meeting but keeping in mind the four (4) week time frame in which a decision must be finalised.

iv. Draft Decision and Judgement

The Secretariat consolidates the findings from the deliberation and prepare a draft decision

¹⁵ Since the *NEA Act 2021* is silent, this part is adopted from Part V of the *Independent Consumer Competition Commission Act 2002*.

¹⁶ Section 110, *NEA Act 2021*

¹⁷ Section 109 (4), *NEA Act 2021*

¹⁸ Section 109 (6), *NEA Act 2021*

and judgement for the Appeals Panels endorsement and recommendation to the NEA Board.

v. **Boards Consideration**

Decisions made by the Appeals Panel must be communicated to the Board for its appropriate consideration before it is published in the National Gazetted.

In consideration of Principles of Natural Justice with regards to the apprehension of bias or conflict interest, where the NEA Board is the decision maker or is part of the decision-making process under the *NEA Act* they cannot be seen to be endorsing or approving recommendations from the Appeals Panel. Under such circumstances, the NEA Board will only be informed of the decision made by the Appeals Panel.

vi. **Gazettal Notice and Notification of Decision**

The decision is required to be published in the National Gazette. Following publication of the decision, the Appeals Panel is obligated to communicate the written notice of the decision to the applicant including the reasons for the decision. In addition, Respondents to the Appeal Application should also be given notification of the decision.

This deliberation process is captured in the flow chart annexed as Annexure 6 in this Guideline.

7. DECISIONS OF THE APPEALS PANEL

Final Decisions

After considering the Appeal Application, the Appeals Panel may either¹⁹ –

- a. confirm the decision; or
- b. amend the decision; or
- c. substitute the decision; or
- d. return the matter to the original decision makers with directions as the Appeals Panel considers appropriate.

Where the Appeals Panel returns the matter to the original decision makers under Part IV of the *NEA Act*, the original decision maker may make a fresh decision in accordance with the Appeals Panel directions, including any directions in relation to the retrospective effect of the fresh decision to be made²⁰.

In making its decision, the Appeals Panel-

- a. is to have regard to the need for consistency with previous decisions of the Appeals Panel²¹; and
- b. may make interim or final orders, including any other orders it thinks fit to make an order of the Appeals Panel must be complied with by any person to whom it is directed in accordance with its terms²²; and
- c. decision is final and binding unless is appealed to the National Court; and

19 Section 109 (5), *NEA Act 2021*

20 Since the *NEA Act 2021* is silent, this part is adopted from the Part XIII of the *National Information and Communications Technology Act 2009* which outlines the procedures to be undertaken by the ICT Appeals Panel.

21 Adopted from Part V of the *Independent Consumer Competition Commission Act 2002*.

22 Adopted from the Part XIII of the *National Information and Communications Technology Act 2009* which outlines the procedures to be undertaken by the ICT Appeals Panel.

- d. must give the applicant written notice of the decision and the reasons for the decision²³.
- e. has no power to award costs against a party to a review²⁴. The costs of the Appeals Panel must be determined by the Board²⁵.

The Appeals Panel must give the Applicant written notice of the decision and the reasons for the decision.

Staying Operation of Decisions

The Appeals Panel has the authority to stay the operation of the decision made under Part IV of the NEA Act to which the Appeal Application relates²⁶. If a decision is stayed, the Appeals Panel may:

- a. cause notice of the stay of the decision –
 - i. to be given to the decision makers; and
 - ii. to be published in the National Gazette.
- b. Published the notice (daily newspapers, NEA noticeboard and web page) of the stay of the decision through the Authority.

8. REVIEW OF THE APPEALS PANEL DECISION

The NEA Act does not expressly provide for statutory time bar with regards to further appeals to the National Court, where the applicant or respondents (or persons) are affected by the decision of the Appeals Panel. However, Parties are at liberty to make an application to the National Court²⁷ pursuant to Section 155(3) of the Constitution and Order 16, Rule 4, sub-rule (3) and (4) of the National Court Rules in the case of order of certiorari, if they are aggrieved by the Appeals Panel decision. For Orders of Certiorari, the applicant or persons affected by the decision of the Appeals Panel have a period of four (4) months, after the date of the proceeding.

23 Section 109 (6), NEA Act 2021

24 Section 42 (6), NEA Act 2021

25 Section 42 (7), NEA Act 2021

26 Section 109(3), NEA Act 2021

27 Section 155 of the *Constitution of the Independent State of Papua New Guinea*

E: Administrative Process in Handling Applications

1. FORM AND MANNER OF LODGEMENT OF APPLICATION

An Applicant must lodge an Appeal Application in the prescribed Appeals Application Form ('the Form') attached in Annexure 2 of this Guideline and is also available at NEA office reception.

An Applicant must correctly complete the Form with supporting documents and submit to the Appeals Panel. The Form has three parts;

- **PART 1 – APPLICANT DETAILS**

- Full Name
- Gender
- Form of Identification
- Phone no.
- Mobile no.
- Email address
- Residential/Physical address
- Postal address

- **PART 2 – COMPANY AND BUSINESS DETAILS (CURRENT).**

- IPA registration documents (Extract and Registration certificate).
- IRC Tax Identification Number (TIN) Certificate form.
- IRC Certificate of Compliance (COC) if required.
- Company/ Business profile
- Is the Company/ Business a Service Provider or a Supplier of Goods
- Any form of licence(s) obtained to provide a particular
- Lodged by Company's authorised officer (letter of confirmation).

- **PART 3 – DETAILS OF THE APPEAL**

- State the decision appealed.
- Date of decision.
- State whose Decision the Appeal Application is made against.
- Brief description of the Appeal
- Grounds for Appeal (What aspect of the Decision appealed against, and the outcome sought).
- Supporting documentation(s) and steps taken (if any) to resolve the dispute prior to making this appeal application.

- Attach response from the Authority (if any) – Emails correspondence and response letters.
 - Any other information and documents necessary.
 - The Applicant is identified by the following identifier (license number, electrician certificate, contractor's certificate) for the service appeal application about.²⁸
- **PART 4 – REPRESENTATION & DECLARATION**
- If the Applicant is representing him/herself:
 - Full Name;
 - Designation (Position);
 - Contact (Phone and Email); and
 - Signature.
 - Or
 - If the Applicant is represented by another person:
 - Name of the Representative;
 - Designation (Position);
 - Contact (Phone and Email); and
 - Authorisation to represent.

The Form is lodged in the following manner:

- a. By Sending Email to the Appeals Panel on email: ComplaintsHandlingBranch@nea.gov.pg; and
- b. by Hand Delivery to the Secretariat of the Appeals Panel, addressing it to:

The Chairman

Appeals Panel
 Goada Herea Building
 Section 58 Allotment 3
 WAIGANI DRIVE, Port Moresby,
 National Capital District, 121
 Papua New Guinea

and /or

- c. by Post addressing to:

The Chairman

Appeals Panel
 National Energy Authority
 PO Box 494
 Vision City
 National Capital District, 121

²⁸ This is not a disqualifier for the lodgement, but the Secretariat will use this to verify the appeal application.

2. HANDLING INCOMING COMPLAINTS

The Secretariat is an Applicant's first point of contact before the Appeals Panel deliberates on their Appeal Application. The Secretariat undertakes the following steps:

Step 1 – Receiving, Screening and Registration

- a. The Secretariat receives the Form.
- b. Acknowledgement response.
- c. Screening the application.
- d. Registration and allocation of application number.
- e. Inform the applicant of the application status.

The Secretariat will:

- a. receive the Form lodged, register and allocate a file reference .
- b. acknowledge receipt of the lodged Form.
- c. screen the lodged Form using the Screening Checklist.
- d. register and allocate an appeal application number ('AA#'). If:
 - i. The Form is correctly filled, it is registered in the Complaints Register and allocated an AA#; or
 - ii. The Form is incorrectly filled, the Applicant is advised to rectify the defect in the form and re-submit.
- e. inform the Applicant of the status of its Appeal Application.

The turnaround time for the receiving and handling of the Form is 24 hours. Once a review has been done, the Secretariat will inform the Applicant on the next steps of their Appeal Application using template 1 and if additional information required then using template 2.

Step 2 – Notification of the appeal application

Notification

The Secretariat will notify the Respondent:

- a. by giving a copy of the Appeal Application and inviting them to join as parties to the review.
- b. to provide a response to the Secretariat regarding their participation.
- c. to provide submission in response with supporting documents or information that was before the Respondent within 5 Days.

Compilation

The Secretariat will:

- a. compile all the documentary information and submission it has received from both the Applicant and the Respondents relating to the Appeal Application for review; and
- b. notify the Chairman of the Appeals Panel to set the date for the Appeals Panel review; and
- c. provide copies of the documents compiled to the Appeals Panel members within 5 Days.
- d. Notify the Parties of the review date of the Appeal Application.

Step 3 – Review

The Secretariat will:

- a. schedule and arrange Review meeting; and
- b. make available the compiled documents to the Appeals Panel; and
- c. record minutes of the Review.

Step 4 – Outcome of the Review

The Chairman of the Appeals Panel will provide a written notice of the decision(s) and the reason(s) for the decision to the Secretariat.

The Secretariat will provide:

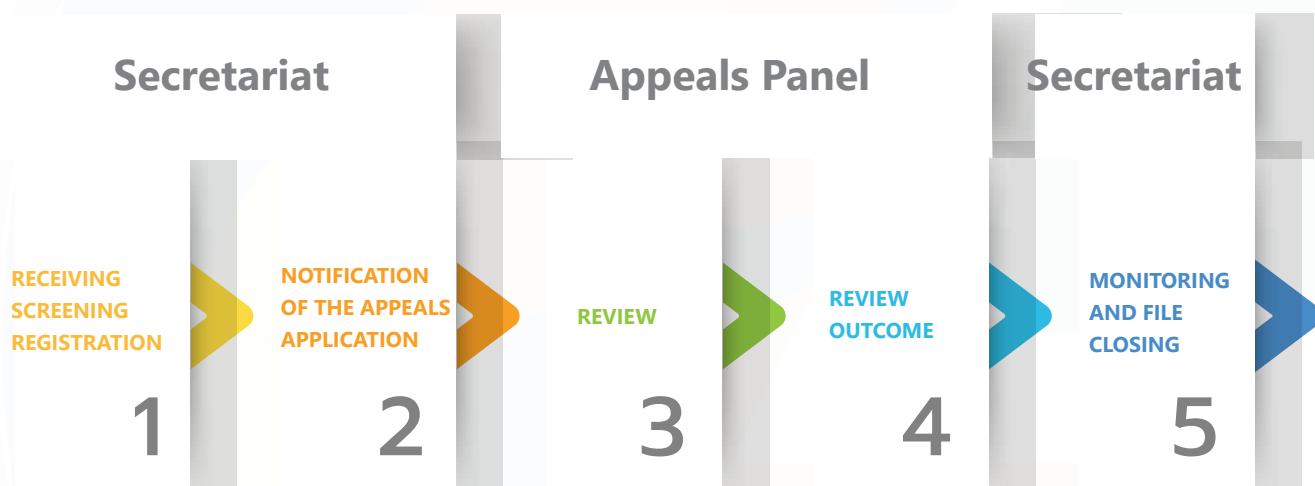
- a. original written notice of the decision(s) and the reason(s) for the decision to the Applicant; and
- b. copies of decision(s) and the reason(s) to the Respondents; and
- c. publish the decision(s).

Step 5– Monitoring and File Closing

The Secretariat will monitor the decision of the Appeals Panel for further Court proceedings (if any) within 4 months.

Where there are no actions taken against the Appeals Panel's Decision(s), the file will be closed.

For the avoidance of doubt, any time frame referred to in the administrative process provided above is only for guidance but subject to the Appeals Panel's confirmation of the schedule.



3. STATISTICAL REPORTING.

The Secretariat will present a report of the Appeals Panel activities annually to the Board.

F. Annexures

1. GLOSSARY

Appeal	means the process by which an applicant lodge an appeal application with the Appeals Panel to review a decision of the Authority. An Appeal, may end with either with; (i) a reversal; or (2) an affirmation, of the initial decision based on the independent assessment of the appeal on the decision by Authority.
Appeals Panel	means the Appeals Panel established under Section 42 of the <i>National Energy Authority Act 2021</i> (as amended) (<i>NEA Act</i>).
Appeal Application	means the application lodged under Part IV of the <i>NEA Act</i> using the Appeal Application Form attached as Annexure 2 of this Guideline.
Appeal Application Number	means the Appeals Application Number (AA#) in the Complaints Register.
Applicant	means a person and/or entity, aggrieved by a decision of the original decision makers under Part IV of the <i>NEA Act</i> who has lodged an appeal application.
Authority	means the National Energy Authority established under Section 7 of the <i>NEA Act</i> .
Board	means the National Energy Authority Board established under Section 13 of the <i>NEA Act</i> .
Complaints Register	means a working document that shows a list of appeal applications recorded and monitored by the Secretariat of the Appeals Panel.
Day	means Business and/or working day excluding weekends and public holidays.
Decision	means a decision defined under Section 41 (1) of the <i>NEA Act</i> .
Deliberation	means one or more meetings to Review the Appeals Application.
ICCC	means the Independent Consumer and Competition Commission established under Section 4 of the <i>Independent Consumer and Competition Commission Act 2002</i> (<i>ICCC Act</i>).
Parties	means the Applicant and the Respondent to the Appeals Application for Review.
PPL	means the PNG Power Limited (Company No: 1 – 44680), a State-Owned Enterprise and the Utility Company responsible for the supply of electricity for the on-grid network and under section 3 of the <i>Electricity Industry Act Chapter 78</i> as the successor company to the PNG Electricity Commission of which its assets, liabilities, rights, titles and personnel were transferred to PPL.
Prescribed Period	means the original decision maker and/or any other person whose interest is affected by an Appeal Application lodged by an Applicant and has been invited to make a submission to the Appeals Panel.

Respondent	means the original decision maker and/or any other person whose interest is affected by an Appeal Application lodged by an Applicant and has been invited to make a submission to the Appeals Panel.
Review	means the assessment of the Appeal Application by the Appeals Panel.
Submission	means a written response by the Respondent.
The Secretariat	means the Secretariat to the Appeals Panel established under section 43 of the <i>NEA Act</i> .
The NEA Act	means the <i>National Energy Authority Act 2021</i> (as amended) including the Schedules and the Regulations.
This Guideline	means this Appeals Panel Guideline endorsed by the Board as the procedures outlining the functions to be implemented by the Appeals Panel and its Secretariat in accordance with Section 11 (1) of the <i>NEA Act</i> .

2. APPEAL APPLICATION FORM

[This Application Form shall be used to lodge a appeal application]



NATIONAL ENERGY AUTHORITY

APPEALS APPLICATION FORM

INSTRUCTION: This Appeals Application Form must be filled out by the Applicant who is affected by the decision of the Original Decision Maker. Application must be completed in full and submitted with relevant required documents. Application has four (4) PARTS. [DECISIONS BY INDIVIDUALS AND CORPORATE ENTITY DISTINGUISHED]

PART 1 – APPLICANT DETAILS

A	Name (Full)			
B	Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female		
C	Form of Identification (attach a copy with this form)	<input type="checkbox"/> Yes	<input type="checkbox"/> Work I.D. <input type="checkbox"/> National Identification (NID) Card <input type="checkbox"/> Driver's Licence <input type="checkbox"/> Passport	#..... #..... #..... #.....
D	Telephone No.	(+675) (+675)		
E	Mobile No.	<input type="checkbox"/> Digicel (+675) <input type="checkbox"/> Be mobile/ Telikom (+675) <input type="checkbox"/> Vodafone (+675)		
F	Email Address			

G	Residential/ Physical Address
H	Postal Address

PART 2 – COMPANY AND BUSINESS DETAILS (CURRENT)

I	Company/ Business		
J	Company/ Business Registered with IPA	<input type="checkbox"/> Yes <input type="checkbox"/> No	If YES, enter Registration No.: <i>(attach copy with this form)</i>
K	Company/ Business Registered with IRC for Tax Purpose?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If YES, enter TIN: <i>(attach copy with this form)</i>
L	Does the Company/ Business require Certificate of Compliance from IRC for withholding Tax?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If YES, enter TIN: <i>(attach copy with this form)</i>
M	Company/ Business Profile attached?	<input type="checkbox"/> Yes <input type="checkbox"/> No	What is the Nature of Business:
N	Are you a Service Provider or Supplier of Goods?	<input type="checkbox"/> Supplier of Goods <input type="checkbox"/> Service Provider	
O	Do you have a Licence or any form of authorisation to provide the above service?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Document Type? No. <i>(attach copy with this form)</i>

PART 3 – DETAILS OF APPEAL

P	State the Decision Appealed
Q	Date of Decision / / (Day / Month / Year)

R	State whose Decision the Appeal Application is made against
S	Brief Description of the Appeal
T	Grounds for Appeal (What Aspect of the DecisionAppealed against, and the Outcome sought).
U	List Supporting documentation(s) and steps taken (if any) to resolve the dispute prior to making this appeal application. (if list is long, attach copy)
V	Other Attachments (if any)	<input type="checkbox"/> Email from Authority (NEA) <input type="checkbox"/> Other Correspondences <input type="checkbox"/> Other Necessary Documents

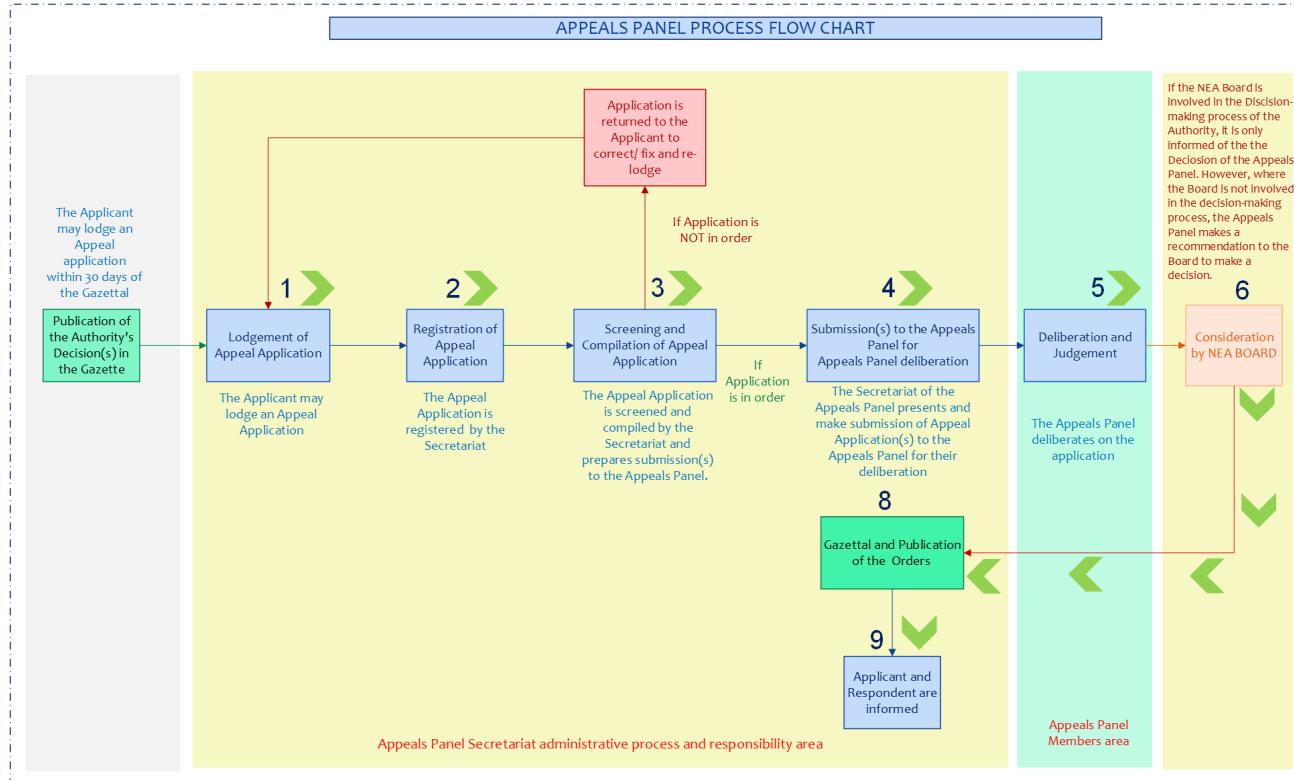
PART 4 – REPRESENTATION AND DECLARATION

W	We / I hereby declare that Mr / Ms / Mrs / Miss _____ (name of Representative) who is the _____ (designation/ position of the Representative) representing the _____ (name of Company/ Business) as the authorised Representative.
X	I hereby declare that the information is true and correct.
Y	Signature: _____ on the _____ day of _____ 20_____

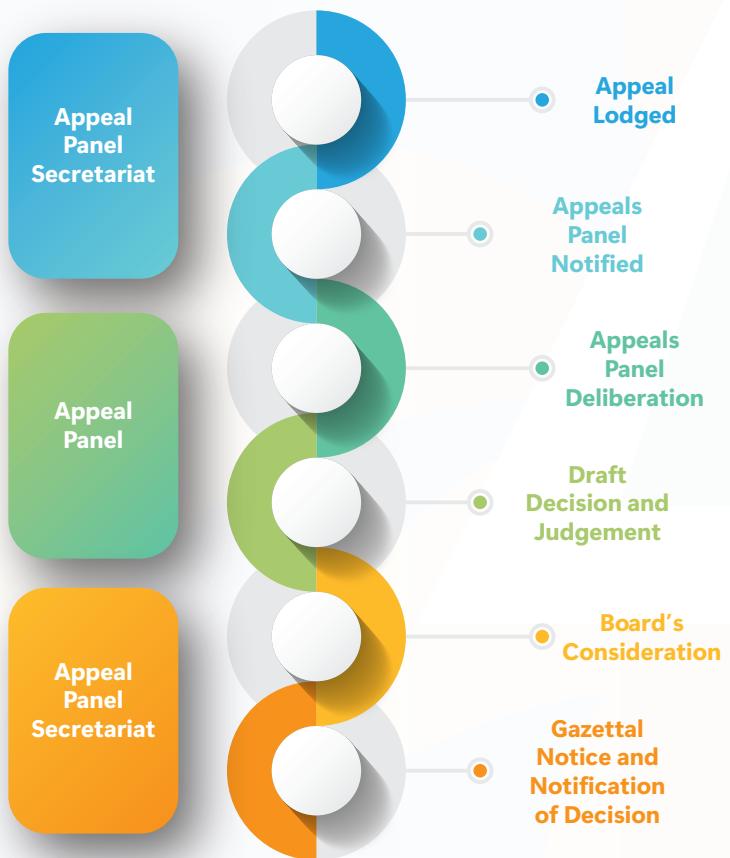
For Office Use Only:

Appeal Application Received by Officer:	
Date Received:	
Method of lodgment (Walk-in/email):	
Appeal Application Reference Number:	
Date Resolved:	
Signature:	

3. APPEALS PANEL PROCESS FLOW CHART



4. DECISION -MAKING PROCESS FLOW CHART



5. DECLARATION OF OFFICE AND OATH OF SECRECY



OATH AND AFFIRMATION BY A MEMBER OF THE APPEALS PANEL.

Oath

I,do swear that I will render true and faithful services as a member of the Appeals Panel established under the National Energy Authority.

So help me God!

Affirmation ²⁹

I,do solemnly and sincerely affirm and declare that I will render true and faithful service as a member of the Appeals Panel under the National Energy Authority.

Signed: _____ Witnessed: _____

Date: _____

Secrecy

I,do solemnly and sincerely affirm and declare that I will not publish or disclose information obtained under Section 52 of the *National Energy Authority Act 2021* to a third party without prior consent in writing from the person from whom the information was obtained.³⁰

Signed: _____ Witnessed: _____

Date: _____

³⁰ Secrecy of Information, Section 124, *National Energy Authority Act 2021*

6. DECLARATION OF IMPARTIALITY

The purpose of this document is to facilitate proper, fair and efficient operation of the Appeals Panel constituted under Section 42 of the NEA Act for the just, fairness and good governance, it is a requirement that all persons nominated and approved by the Board to members of the Appeals Panel to make this declaration before deliberation on an appeal application. If any member feels that they are unable to comply with this requirement, they should discuss the matter with the Appeals Panel Secretariat and their nominated professional body to determine whether or not, in all of the circumstances, they should decline nomination to the Appeals Panel

DECLARATION OF IMPARTIALITY

I, (full name)

of (work/other address)

a member of the Appeals Panel in the matter of
.....
.....

DECLARE:

1. I do not have and have not had a relationship with a party in this appeal application before the Appeals Panel of any kind that may cause a reasonable person to suspect that I may be biased, including:
 - a family relationship; or a
 - close personal relationship; or a
 - relationship involving personal hostility; or a
 - business or employment relationship.
2. I do not have or had any other personal or professional involvement in the appeal application before Appeals Panel's deliberation (e.g., Pecuniary or non-pecuniary interest in the matter – such as acting as a party's adviser in the matter).
3. I understand that, while in my capacity as a member of the Appeals Panel, I am not subject to directions by, nor should I act on instruction from, any person, body or authority other than legal directions (e.g. from a court of law).
4. I will conduct my duties as a member of the Appeals Panel in accordance with the Appeals Panel Guidelines with fairness, equity and impartiality independent of any interests of the body which nominated me.
5. I will contribute to the identification of the key issues of the appeal and participate in the analysis

and assessment of those issues based on my own opinions on the merits and information before the Appeals Panel.

6. After making this declaration, should a relationship, involvement or interest of a kind described in this declaration develop, and there are grounds for reasonable suspicion of bias or prejudice on my part, I will disqualify myself from considering the appeal application
7. I will ensure that the free and frank discussion of views of the Appeals Panel in deliberating the evidence and matters before the Appeals Panel remain strictly confidential.
8. I acknowledge that the written recommendation report is confidential and (subject to the Appeals Panel Guidelines) is only made available to the Applicant, the Board and the Authority (as relevant).
9. I acknowledge that if I fail to comply with the requirements of this declaration, I may not be nominated for the future Appeals Panels proceedings.

Signed: _____ Witnessed: _____

Date: _____

7. DISCLAIMER

The information contained in this Guideline is strictly confidential and was developed in accordance with the applicable laws of Papua New Guinea to be used by the Appeals Panel, its Secretariat and the National Energy Authority for their information and purposes. It may not be reproduced or redistributed to any other person, and it may not be published, in whole or in part, for any purpose. By receiving this information, you become bound by the above-referred confidentiality obligation. NEA will not be responsible for action or omission outside of this disclaimer.

Notes

Notes

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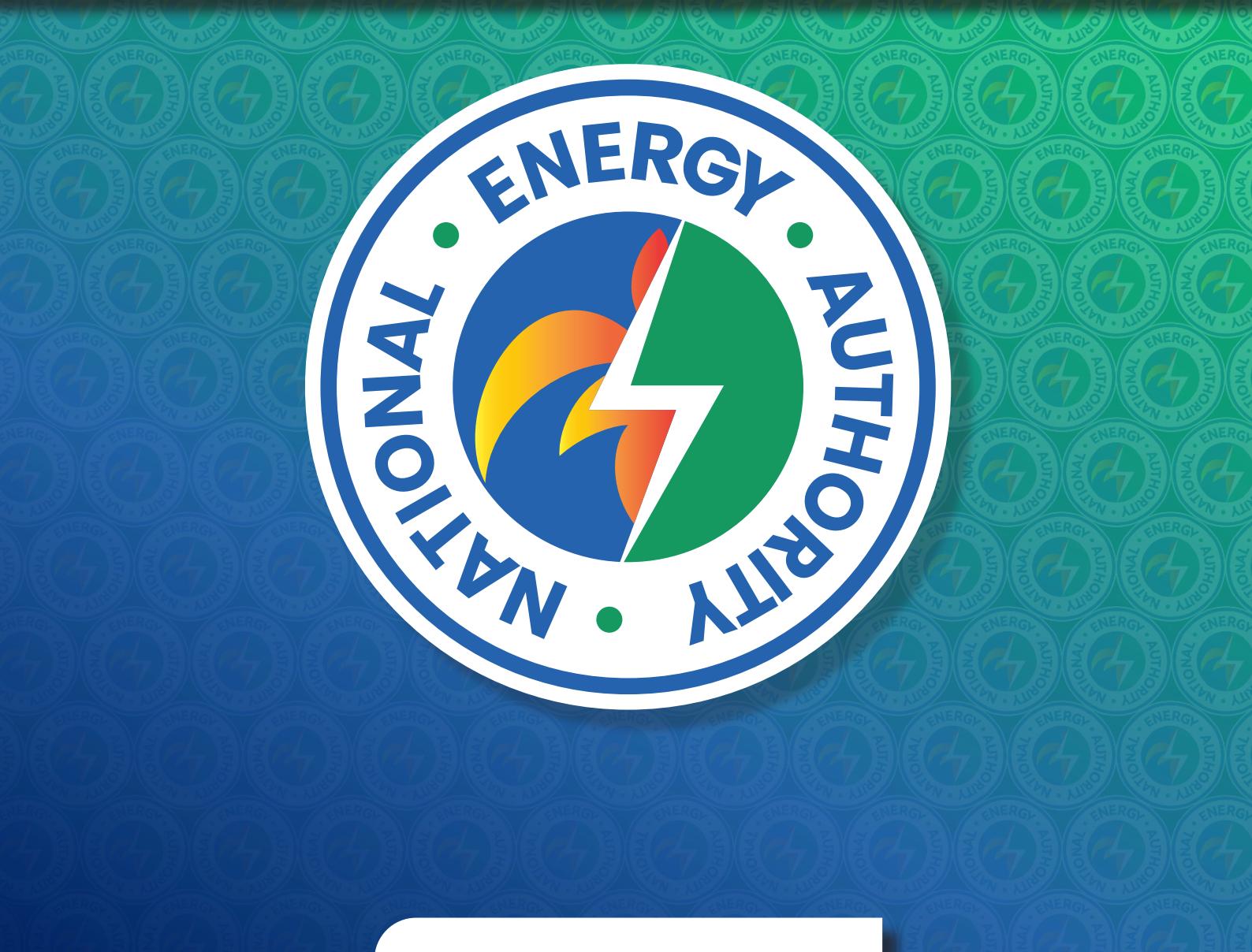
Contact

Phone: 3253233
Email: info@nea.gov.pg

Website

Website: <https://www.nea.gov.pg>





www.nea.gov.pg

Harnessing Energy for Sustainable Development