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ABUSE OF DOMINANCE AND COMPETITION CONCERNS IN ZAMBIA'S ELECTRICAL SECTOR: A CRITICAL EXAMINATION OF ZESCO'S MARKET POWER

By:

SOYANE LEON CHABOOKA

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2025

DECLARATION

I declare that this dissertation entitled, **ABUSE OF DOMINANCE AND COMPETITION CONCERNS IN ZAMBIA'S ELECTRICAL SECTOR: A CRITICAL EXAMINATION OF ZESCO'S MARKET POWER,** which is hereby submitted in partial fulfilment of the requirement for the award of a Bachelor's Degree at the University of Lusaka is my own original work and it has not been previously submitted for the award of a degree at this university or any other tertiary institution.

I understand what plagiarism entails and I'm aware of the University's policy in this regard. Thus, where other peoples work is cited, I have duly acknowledged. The errors or omissions in this work are solely mine.

……………………..………………….   …………………………………………..

SOYANE LEON CHABOOKA   **MR. JOY MULAMBIA**

2025

SUPERVISOR'S RECOMMENDATION

I, Joy Mulambia recommend that this dissertation prepared under my supervision by Soyane Leon Chabooka, entitled **ABUSE OF DOMINANCE AND COMPETITION CONCERNS IN ZAMBIA'S ELECTRICAL SECTOR: A CRITICAL EXAMINATION OF ZESCO'S MARKET POWER**, be accepted for examination. I have checked it carefully and I'm satisfied that it fulfils the requirement pertaining to the format laid down in the regulations governing directed research.

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SOYANE LEON CHABOOKA   **MR. JOY MULAMBIA**

………………2025……………….

DATE

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DEDICATION

This dissertation is dedicated to Ryan Lethabo Chabooka, my son. You're the reason my heart beats stronger and it is because of you that my spirit never gives up. Every word I have written, every ache I have had to feel or endure, and every dream I chase, is for us. Just as I dedicate this work to you, I dedicate my life and promise to make sure you always know what love feels like, the kind of love that is steady, gentle and never fades.

I will dedicate myself to building a world where you're safe, where laughter fills your heart, and where you grow knowing that you are deeply cherished and loved. You're my Little King, my pride, my joy, and the purest reminder that life's greatest achievements is not just in what we accomplish, but in who we love.

ABSTRACT

The liberalization of electricity markets has become an important factor in the energy sector reform across many countries in Africa and is aimed at fostering competition, improving efficiency, as well as attracting private investment. The **Competition and Consumer Protection Act** prohibits agreements or conduct that can unduly restrain competition, but the Act exempts the energy sector from antitrust enforcement in Zambia. The enactment of the **Electricity Act No. 11 of 2019** and the **Energy Regulation Act No. 12 of 2019** was supposed to stop the historical dominance of the state-owned ZESCO Limited and was supposed to do this by putting into place licensing frameworks, open access provisions and regulatory mechanisms. This dissertation critically examined whether these legislative reforms have in any way made an actual competitive electricity sector or whether ZESCO's concrete position will continues to prevent competition or instead, put a strain on competition. The study also investigated the legal as well as structural factors that support ZESCO's market dominance in generation, transmission, and supply, while also analyzing the roles of competition law and the exemption that is in the Act in regards to shaping market dynamics. Using a doctrinal and comparative methodology, the research will draw on statutory analysis, case law, and the best regional practices to put to light the relationship between sector-specific regulation and general competition law. The scope of the study is Zambia's electricity sector after the 2019 reforms, with comparative reference to other jurisdictions in the Southern African region like Kenya. This work contributes to the academic discourse on competition law in regulated utilities by shading light on the relationship of energy regulation and antitrust principles in the context of Zambian competition law.

KEY WORDS

Competition Law: Competition law (also known as antitrust law) refers to the body of law that promotes or seeks to maintain market competition by regulating anti-competitive conduct by companies.

ZESCO: A state-owned enterprise responsible for the generation, transmission, distribution, and supply of electricity in Zambia.

Electricity Sector: The electricity sector comprises the generation, transmission, distribution, and retail supply of electric power.

Market Power: Market power is a firm's ability to influence market conditions, such as prices, output, or innovation, without losing significant market share to competitors.

Energy Regulation: Energy regulation refers to the legal and institutional framework governing how energy (including electricity) is generated, transmitted, and sold.

DEFINITIONS OF KEY TERMS

Common carrier: A legal designation for infrastructure that must be made available to others on regulated terms.

Competition: A market condition characterized by multiple sellers offering similar products or services, such that no single firm can control prices or exclude rivals[1].

Dominant position: position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by giving it *the power to behave to an appreciable extent independently of its competitors, customers and ultimately of its consumers*[2].

Energy Regulation Board (ERB): The statutory body established by the Energy Regulation Act 2019 to license, regulate and oversee the energy sector (including electricity) in Zambia.

Independent Power Producer (IPP): A non-utility company that generates electricity for sale. IPPs may be private or public, domestic or foreign, and often sell power via Power Purchase Agreements (PPAs).

Market Power: Refers to a firm's ability to influence market outcomes, such as prices, output, and innovation, through its economic strength and strategic behavior[3].

Monopoly: A market structure in which a single firm dominates production and supply[4].

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[1] Or Brook and Magali Eben, 'Abuse without Dominance and Monopolization without Monopoly' in Pınar Akman, Or Brook and Konstantinos Stylianou (eds), *Research Handbook on Abuse of Dominance and Monopolization* (Edward Elgar Publishing 2023).

[2] United Brands Company v. Commission, 1978

[3] Pranvera Këllezi, 'Abuse below the Threshold of Dominance? Market Power, Market Dominance, and Abuse of Economic Dependence' in Mark-Oliver Mackenrodt, Beatriz Conde Gallego and Stefan Enchelmaier (eds), *Abuse of Dominant Position: New Interpretation, New Enforcement Mechanisms?*, vol 5 (Springer Berlin Heidelberg 2008).

[4] Ibid.

Open Access: A regulatory regime that allows any licensed electricity generator or large consumer to use the transmission and distribution grid under non-discriminatory terms[5].

Wheeling: The use of a transmission or distribution network to transport electricity from a generator to a customer who are not directly connected[6].

[5] 'What Is Open Access in Electricity? Your Complete Power Guide' (*Tata Power*) <https://www.tatapower.com/blogs/what-is-open-access-in-electricity-your-complete-power-guide> accessed 13 October 2025.

[6] 'Wheeling - Distribution' (7 July 2022) <https://www.eskom.co.za/distribution/tariffs-and-charges/wheeling/> accessed 13 October 2025.

ABBREVIATION

CCPA	Competition and Consumer Protection Act
ERA	Energy Regulation Act
ERB	Energy Regulation Board
MOE	Ministry of Energy
PPA	Power Purchase Agreement

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CHAPTER ONE:

GENERAL INTRODUCTION TO THE STUDY

1.0 INTRODUCTION

Zambia's economy highly depends on electricity for its day to day activities, which is overwhelmingly supplied by the state-owned ZESCO Limited. Historically, the 1970 Electricity Act granted ZESCO a nationwide monopoly which was later formally ended by the **Electricity Act of 1995**. Regardless of this, ZESCO has remained dominant, controlling roughly 74% of generation, transmission and distribution infrastructure[7]. In response to persistent supply shortfalls and a desire for private investment, the government enacted new laws in 2019 like the **Electricity Act No. 11 of 2019 of the Laws of Zambia**[8] and the **Energy Regulation Act No. 12 of 2019 of the Laws of Zambia**[9]. These Acts introduced single-licensing for generation, transmission, distribution, and supply and aimed to liberalize the sector by promoting **Independent Power Producers (IPPs)** and open access to the grid which in principle, should have increased competition and improved efficiency and lower prices. However, while competition law prohibits anticompetitive conduct by dominant firms, the **Competition and Consumer Protection Act** has exempted sectors with specific regulatory frameworks from antitrust scrutiny. This chapter shall examine the legal as well as the practical context of these reforms, which in turn shall set the stage for investigations in regard to whether the 2019 Acts have meaningfully broken ZESCO's dominance as well as promoted competition.

1.1 BACKGROUND OF THE PROBLEM

ZESCO's monopoly lies in colonial and post-independence laws. By 1970, ZESCO obtained nearly all local electricity activities, which made it the only state utility. The

[7] Ministry of Energy 'INVESTMEN PLAN FOR ZAMBIA: Scaling-up Renewable Energy in Low Income countries' (MoE 2019) 6 Para.4; Ministry of Energy and Water Development 'NATIONAL ENERGY POLICY' (MEWD 2008).
[8] Act No. 11 of 2019 of the Laws of Zambia.
[9] Act No. 12 of 2019 of the Laws of Zambia.

Electricity Act of 1995 formally abolished ZESCO's statutory monopoly and created the **Energy Regulation Board (ERB)** to act as an independent regulator. However, despite these reforms, ZESCO has still remained the dominant owner of grid assets, which basically means they supply essentially all grid-connected customers with the few exceptions being large mining concerns served by Copperbelt Energy Corporation. Successive governments have relied on ZESCO for bulk supply, and large **Power Purchase Agreements (PPAs)** with independent producers often still required ZESCO as the off-taker.
Under the Electricity Act and Energy Regulation Act, the government aimed to open the market to other power producers. Notably, these Acts allow a single license for a company to operate in all segments and envisioned facilitating IPPs and other entrants but, critical functions remain under ZESCO's control. It has been noted by analysts that under the current framework ZESCO effectively remains the sole owner and operator of the national transmission network[10]. All new generators or distributors must connect through ZESCO's grid, which lets or rather allows ZESCO to retain significant gatekeeping power. Parliament just recently insisted on open access regulations in 2024 precisely, to enable third-party use of the grid. Until those rules came into effect, Zambia's high-voltage grid was essentially an essential facility controlled by ZESCO which basically limiting competition.

Compounding this, the **Competition and Consumer Protection Act**[11] prohibits agreements or conduct that unduly restrain competition, but the Act explicitly exempts the energy sector from antitrust enforcement because it is a sector with a specific regulatory framework[12]. Consequently, ZESCO's market power largely escaped Competition Commission scrutiny. In practice, the Competition Commission has warned that absent enforcement, and abuse of dominance persist despite the policies that were meant to liberalize the energy sector. Thus, even with the 2019 reforms,

[10] Kate Bayliss and Gabriel Pollen, 'The Power Paradigm in Practice: A Critical Review of Developments in the Zambian Electricity Sector' (2021) 140 World Development 105358.
[11] Act No. 24 of 2010.
[12] Ministry of Energy 'INVESTMEN PLAN FOR ZAMBIA: Scaling-up Renewable Energy in Low Income countries' (MoE 2019) 6 Para.4; Ministry of Energy and Water Development 'NATIONAL ENERGY POLICY' (MEWD 2008).

structural and legal gaps remained and ZESCO continues to dominate generation, transmission and supply while the competition law regime provides little to no oversight. This creates regulatory uncertainty and raises the question of whether the **Competition and Consumer Protection Act** as well as the 2019 Acts have in practice, reduced entry barriers and improved competition.

1.2 STATEMENT OF THE PROBLEM

Despite recent reforms like the **Electricity Act 2019 and Energy Regulation Act 2019**, the acts make ZESCO the sole owner and operator of the national transmission network in Zambia and anyone that wants to generate or rather distribute electricity must connect through ZESCO. Zambia's state-owned ZESCO continues to dominate electrical generation, transmission and supply in the electrical sector. **Section 3(1) of the Competition and Consumer Protection Act** provides that the Act applies to all economic activity within, or having an effect within Zambia. **Section 3(2) of the Act** further provides that; the Act binds the State insofar as the State or an enterprise owned, wholly or in part, by the State engages in trade or business for the production, supply, or distribution of goods or the provision of any service within a market that is open to participation by other enterprises[13]. **Section 16 of the Competition and Consumer Protection Act of 2010**[14] refrains any enterprise from any acts or conduct that unduly restrain competition in Zambia. Notably, Zambia's competition law has exempted electricity and sectors with specific regulatory frameworks. This means ZESCO, a majority state-owned enterprise lies largely outside antitrust scrutiny. It is evident that this exemption create regulatory uncertainty in our country's competition laws and removing it would prove helpful in encouraging competition in the energy and electricity sector. The Competition Commission itself has flagged that even with IPP access policies, risks of market foreclosure and dominance abuse remain without clear enforcement[15]. In short, the current regime may fail to prevent anti-competitive conduct by ZESCO or fully open the market to competitors which basically

[13] Act No.24 of 2010.
[14] Ibid.
[15] CUTS, '*Enforcing Competition Law in Zambia*' (Zambia Consumers Association, 2002).

undermining objectives of lower prices, fair competition and increased private participation. Monopolies can set prices above competitive levels and stifle innovation; indeed, Zambia has seen electricity tariffs rise and the quality of the services fall sharply, burdening households and businesses all together. On the other hand, if the 2019 Acts are effective, they should have improved competition, reduced prices and attracted new investment.

1.3 RESEARCH OBJECTIVES

1.3.1 Main Objectives

The main objective of this study; **Abuse of Dominance and Competition Concerns in Zambia's Electrical Sector: A Critical Examination of ZESCO's Market Power,** is to assess the effectiveness of Zambia's **Electricity Act No. 11 of 2019** and **Energy Regulation Act No. 12 of 2019** in promoting competition within the electricity sector, as well as address the exemption provided for In the **Competition and Consumer Protection Act No.24 of 2010**, and whether these provisions facilitate competition or reinforce ZESCO's position.

1.3.2 Specific Objectives

I. To assess the legal and structural factors that sustain ZESCO's dominant position in generation, transmission and supply.

II. To evaluate how the Competition and Consumer Protection Act 2010 exemption as well as the Competition Commissions enforcement capacity affect market entry and competition.

III. To propose feasible legal and regulatory reforms, drawing on lessons from Kenya, to reduce anti-competitive conduct in Zambia's electrical sector.

1.4 RESEARCH QUESTIONS

I. To what extent do the legal and structural factors sustain ZESCO's dominant position in generation, transmission and supply?

II. How has the exemption and the Competition Commissions' enforcement capacity affected market entry and competition?

III. What feasible legal and regulatory reforms drawn from Kenya's experience can curb anti-competitive conduct in Zambia's electrical sector?

1.5 SIGNIFICANCE OF STUDY

Academically, the significance of this study is to fill a gap in the literature on competition law in regulated utilities. There has been a limited analysis on Zambia's specific post-2019 regime and so the findings of this study will contribute to new insights into the relationship between competition policy and electricity sector reform.

Moving away from a single-buyer model is supposed to lead to reduced energy prices, an improvement in grid reliability, as well as an increase in investment in the sector. In addition to this, strengthening competition will also attract IPPs and private investors which in turn will help to expand the capacity of generation and diversify the energy mix and supply in line with the goals of national policy. To add on, understanding any shortcomings in the 2019 framework will guide reforms that align with the objectives of Zambia's broader development.

Finally, this research is significant for the interests of policymakers, regulators, the industry and consumers because a more competitive electricity market basically means that there shall be lower prices and better service for the country. The study also has practical value for Zambian consumers and businesses because if competition is effective, the reliability and affordability of electrical services that are offered by ZESCO should naturally improve which in turn shall benefit households and industries all together.

1.6 SCOPE OF STUDY

This dissertation focuses on Zambia's electricity sector and the legal framework governing it, primarily examining the period from 2019 to the present. Substantively, the study considers the **Electricity Act No. 11 of 2019** and the **Energy Regulation Act No. 12 of 2019** and how they affect competition, with specific reference to ZESCO. It reviews the roles of the **Energy Regulation Board (ERB)**, the

Competition and Consumer Protection Commission (CCPC), ZESCO, and new private entrants. Other energy sectors are outside the scope except where they intersect with electricity regulation. Technically, the study does not assess grid operations or engineering issues, except insofar as they influence market access. It also does not cover transmission-level markets outside Zambia or non-compete economic factors in depth, except to the extent they relate to competition.

1.7 DEFINITION OF KEY TERMS

Competition: A market condition characterized by multiple sellers offering similar products or services, such that no single firm can control prices or exclude rivals.

Monopoly: A market structure in which a single firm dominates production and supply.

Dominant position: A situation where one company has significant market power to behave independently of competitors or customers.

Energy Regulation Board (ERB): The statutory body established by the Energy Regulation Act 2019 to license, regulate and oversee the energy sector (including electricity) in Zambia.

Independent Power Producer (IPP): A non-utility company that generates electricity for sale. IPPs may be private or public, domestic or foreign, and often sell power via Power Purchase Agreements (PPAs).

Open Access: A regulatory regime that allows any licensed electricity generator or large consumer to use the transmission and distribution grid under non-discriminatory terms.

Wheeling: This is the use of a transmission or a distribution network to transport or move electricity from a generator to a customer who is not directly connected.

Common carrier: This is a legal designation for infrastructure that should be made available to others on regulated terms.

1.8 LITERATURE REVIEW

1.9.2 Global Context

Xingyu (2019) Xingyu's framework aims to propose that a strong theory of harm is keyin regard to shading light on anti-competitive practices. He further states and provides that his challenge is constructing theories of harm that blend economic theory with the policy mandates of a legal regime, and the meet tests of internal logical consistency and economic plausibility. The lesson learned is that competition analysis requires both clear logic and economic sense, or it will fail in enforcement. The application of these theory of harm methods to Zambia's electricity cases in regard to improving case quality and outcomes is not there at all[16].

Peric (2022) Peric's analysis of the matter shows that dominance is not automatically from market share alone. Peric clearly highlights that a firm can behave independently of customers in that if customers can influence terms, dominance may not be established. What has been done is the clarification of legal distinction regarding the United Brands test and buyer power. Market-power analysis must consider buyer influence as a mitigating factor, which complicates enforcement. Empirical work assessing buyer power in Zambia's electricity market to determine when market shares actually translate into actionable dominance must be implemented[17].

Heffron and Talus [2012] say that Energy law sits at the intersection of multiple disciplines. The research challenge is in balancing economics, politics and environmental concerns when it comes to shaping energy policy, because each of them pull policy in different directions. What has been done is a theoretical framing that emphasises inter-disciplinary interactions in energy policy. The take from Heffron and Talus is that for every policy there will always be a resulting consequence, so reforms must always be balanced because the consequence of imbalance can greatly

[16] Yan Xingyu, 'Theories of Harm on Abuse of Dominance' (University of Groningen 2019).
[17] Gabriel Peric, 'EU Competition Law and Abuse of Dominance' (Orebro University 2022).

undermine objectives. Missing from this literature is concrete frameworks that are context-specific which show how to achieve that balance in practice within the constraints of Zambia's institution[18].

1.8.2 Regional Context

Adam Hayes (2025) clearly states and provides that introducing competition can bring up lower costs and innovation[19]. In practice, many countries have unbundled utilities and adopted open-access regimes to encourage competition, especially at the generation level. For example, in South Africa and Kenya, policymakers have promoted open markets to allow multiple sellers and buyers to participate freely[20]. Regulatory experts note that open access encourages competition and innovation by letting large consumers and independent producers use the grid on fair and equal terms[21].

Simon Ng'ona (2015) Ng'ona clearly points out that enforcement tools do exist but sometimes have procedural gaps. The research challenge he notes is that although the new Act allows the CCPC to order parties to stop suspicious behaviour during investigation, the Act does not specify any investigation timelines, which in turn creating uncertainty. What has been done is the statutory empowerment of CCPC to issue stop-orders, which in more ways than one is a positive enforcement step. The lesson learned is that a lack of predictability around investigation duration can harm or seriously prejudice businesses and undermine confidence in the regime[22].

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[18] Raphael J Heffron and Kim Talus, 'The development of energy law in the 21st century: a paradigm shift?' (Journal of World Energy Law and Business, May 5 2016, 0, 1–14) 4-5.

[19] What is Monopoly? Types, Regulations, and Impact on Markets https://www.investopedia.com/terms/m/monopoly.asp#:~:text=A%20monopoly%20is%20a%20market,and%20thus%2C%20limit%20consumer%20choice

[20] Kenya, South Africa and Zambia: *Open Electricity Market Reforms-comparisons and lessons learned* https://www.polity.org.za/article/kenya-south-africa-and-zambia-open-electricity-market-reforms-comparisons-and-lessons-learned-2025-06-18#:~:text=The%20Energy%20Act%2C%202019%20laid,systems%20by%20any%20licensed%20entity

[21] Ibid.

[22] Simon Ng'ona, 'The Impact of the Competition Reforms on Business in Zambia An Evaluation of the Zambian Business licencing and Regulatory Reform Programme' [2015] CUTS International, Lusaka.

I Lesofe and N Nontombana (2020), in their findings, provide that enforcement failures leave markets vulnerable to dominant forces. The key challenge they identify is that over years the Competition Commission's prosecution of abuse of dominance cases has had little to no impact. Many cases are either closed, settled or rejected on appeal. There has only been are investigations and prosecutions, but the result has been few successful tribunal outcomes. The lesson is that weak enforcement inevitably allows concentrated and unchanged sectors, which is a serious disadvantage for market contestability[23].

1.8.3 Local Context

Makweti Sishekanu (2017), Sishekanu argues that unlocking the system takes more than amending legal text. Liberalisation alone is not enough and the key research challenge she identifies is that if the energy sector is liberalized but there are no measures in place to make sure its growth is cemented, the exercise defeats the purpose of opening the sector. What has been done so far is the push for legal liberalisation, but his study warns this has not been matched by practical measures that can shift the dynamic. The lesson is that ZESCO's monopoly and private investment cannot co-exist under current arrangements, and the consequence may be policy failure rather than market development[24].

Bayliss and Pollen (2021) Bayliss and Pollen show liberalisation can backfire in practice and a major research challenge they highlight is Zambia's heavy reliance on hydropower which led to low power generation being filled by long-term IPP Contracts for fossil-fuel, which created high debt and foreign-exchange liabilities. What has been done includes the attraction of private investment through IPPs, but the outcome shows how tariffs were raised to levels that are unaffordable and social inequities worsened. Competition and privatization alone cannot guarantee consumer welfare[25].

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[23] I Lesofe and N Nontombana1, 'A Review of Abuse of Dominance Provisions of the Competition Act - Is It Necessary?'

[24] MakwetiSishekanu, 'Energy Regulation Act Review' (July 8, 2017) para 5 [Accessed from http://www.daily-mail.co.zm/energy-regulation-act-review/

[25] Kate Bayliss and Gabriel Pollen, 'The Power Paradigm in Practice: A Critical Review of Developments in the Zambian Electricity Sector' (2021) 140 World Development 105358.

1.8.4 Theoretical Framework

Lau Nilausen and Ying Li (2025) states that competition analysis in the electricity sector draws on the economic theory of monopoly and anti-trust law principles. He suggests that a firm is considered dominant if it can act to an appreciable extent independent of its competitors, customers and consumers. He further states that traditionally a market share above 50% triggers scrutiny but experts caution that market share alone is not decisive. A high-share firm may still face constraints like constraints from alternative suppliers or powerful buyers, so competition authorities develop a theory of harm which blends legal mandates with economic logic. In other words, competition policy should look at demand factors like buyer power, switching alternatives, and market definition, and not just raw shares[26].

1.9 METHODOLOGY

1.9.1 Research Approach

A good qualitative purpose statement contains information about the central phenomenon explored in the study, the participants in the study and the research site[27]. The research was conducted in a qualitative manner primarily through desk review of publications, research and data which was sourced from statutes, text books, articles and journals, newsletters and brochures; and information from credible internet sources.

1.9.2 Research Type

The research type is a critical examination aimed at assessing the effectiveness of Zambia's Electricity Act No. 11 of 2019 and Energy Regulation Act No. 12 of 2019 in promoting competition within the electricity sector.

[26] Lau Nilausen and Ying Li, 'The Market Share/Dominance Fallacy' Compass Lexecon.
[27] John W Creswell, *Reasearch Design Qualitative, Quantitative, and Mixed Methods Approaches* (THIRD EDITION, 2009).

1.9.3 Study Population

The study population for this research is ZESCO customers, which, as of 31st December, 2024, has an estimated population of 1,356,955 people[28].

1.9.4 Sampling Size

For the purpose of this research, a sample size of 5 individuals was selected. These individuals comprise of one (1) expert in their respective field, two (2) legal practitioners, and three (3) members of the general public.

1.9.5 Sampling Techniques

Purposive sampling, also known as judgmental or selective sampling, is a non-probability sampling technique in which researchers deliberately select participants based on their knowledge, relevance, or expertise concerning the research topic[29]. In this study, a purposive sampling strategy was used. The focus was on individuals who are directly involved or who have relevant knowledge on the subject matter, ensuring that the research fulfills its intended objective.

1.9.6 Data Collection

A faceted approach was employed for data collection. A systematic document analysis was commenced, which involves a complete review of pertinent documents three (3) legislative and two (2) policy documents.

10.0 ETHICAL CONSIDERATIONS

In conducting this research, key ethical considerations will be followed. Informed consent shall be obtained from participants in order to ensure they understand the purpose of the research and how their data will be used. Strict confidentiality and anonymity will be maintained in order to protect personal or sensitive information. The research shall be conducted with integrity as well as honest reporting of findings and acknowledgment of limitations. Respect for intellectual property shall be upheld by

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[28] Raymond Muyovwe, '2024 ANNUAL STATISTICAL BULLETIN'.

[29] 'Purposive Sampling - Methods, Types and Examples' <https://researchmethod.net/purposive-sampling/> accessed 10 October 2025.

clearly citing sources and attaining necessary permissions. Lastly, compliance with all relevant laws, regulations, and professional standards shall be met. These steps will ensure ethical conduct and responsibility of the research.

CHAPTER TWO:

ASSESSING THE LEGAL AND STRUCTURAL FACTORS THAT SUSTAIN ZESCO'S DOMINANT POSITION IN GENERATION, TRANSMISSION AND SUPPLY

2.0 INTRODUCTION

Zambia's electricity sector remains dominated by ZESCO Limited, the state-owned utility that owns nearly all large hydropower plants, operates the national grid, and acts as the single-buyer of power, purchasing about 80% of national supply under long-term PPAs[30]. While IPPs exist, they must sell through bilateral agreements with ZESCO, which basically reinforces a single-buyer model and vertically integrated dominance across generation, transmission and supply. Although reforms under the Electricity Act 2019 and Energy Regulation Act 2019 introduced provisions for open access, multi-buyer trading, and new roles such as power traders and system operators, ZESCO's rooted control of infrastructure and contracts ensures it remains the central actor. The Competition and Consumer Protection Act prohibits abuse, not mere dominance, while the ERB and Competition Commission focus on oversight rather than structural change. This chapter critically examines how these legal and structural frameworks sustain ZESCO's position, assessing whether the reforms meaningfully open the market or largely preserve the utility's dominance.

Figure 1 below shows Transmission and Distribution percentages shared between ZESCO and IPP's. In practical terms, ZESCO's market share in transmission and distribution was 100%, with independent producers having no separate grid of their own[31].

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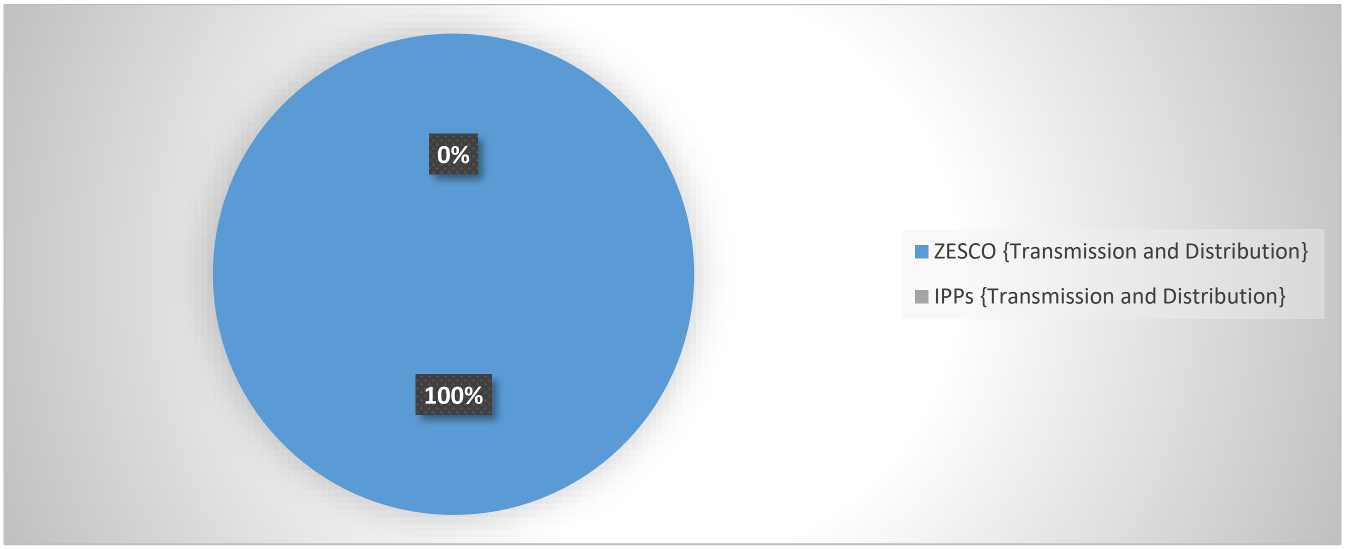
[30] Zambia: *Open Access Regime* https://www.hunton.com/insights/legal/zambia-open-access-regime#:~:text=Currently%2C%20the%20Zambian%20energy%20sector,investment%20to%20Zambia%E2%80%99s%20energy%20sector

[31] 'Zambia - Energy' <https://www.trade.gov/country-commercial-guides/zambia-energy> accessed 3 October 2025.

Figure 1: Market Share in Transmission and Distribution (Zambia, 2023).



2.1 THE ELECTRICITY ACT: LICENCES, GENERATION AND NETWORK ACCESS

The Electricity Act modernized Zambia's power-sector law. It applies to generation, transmission, distribution and supply of electricity, and establishes rules for licensing, grid access, tariffs, and safety[32]. Crucially, **Section 5 of the Act** expressly prohibits any person from generating, transmitting, distributing or supplying electricity except under the Act's authorization[33]. This means that only licensed entities may operate in the sector. In practice, ZESCO is the sole (or primary) licensee for large-scale generation, national transmission, and national distribution. All others (IPPs or retailers) must obtain licenses or operate under ERB-approved arrangements.

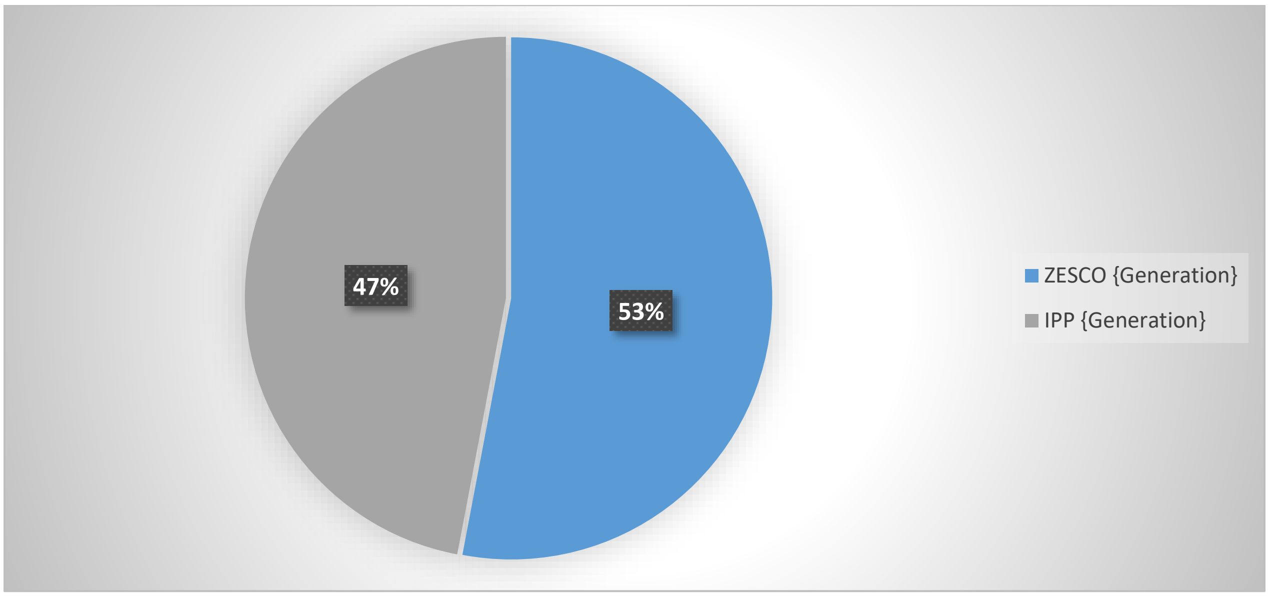
The chart below illustrates ZESCO's dominance in Zambia's power sector.

[32] Act No. 11 of 2019

[33] Ibid.

In Figure 2 below, it is shown how Electricity Generation is divided between ZESCO Limited and other IPP's. In generation, ZESCO owns roughly 52.99% of installed capacity versus 47.01% for all IPPs combined[34].

Figure 2: Market Share in Electricity Generation (Zambia, 2023)



2.1.1 Generation Licenses and Capacity Planning.

Under **Section 6 of the Act**, any person wishing to construct a generation plant of 250 kW or more (or any plant serving others) must follow the Act and ERB requirements[35]. A prospective generator must ensure coordination with existing enterprises. **Section 7** requires a licensee (which includes ZESCO or others) to obtain ERB approval for any new installed generation capacity. In effect, ZESCO (as the main licensee) must seek ERB permission to build new plants, ostensibly to "ensure continuous supply" or add capacity for particular consumers. **Sections 8–9** similarly require ERB approval for any capacity change and mandate that a "producer" (an entity generating electricity) comply with license terms and the grid code. Notably,

[34] 'ZESCO Limited - Renewable Energy' <https://www.zesco.co.zm/renewable.php> accessed 3 October 2025.
[35] Ibid 320.

Section 9(1) (e) says a producer may "enter into contracts for the sale of electricity, subject to the prior written approval of the Energy Regulation Board". Thus even bilateral PPAs (such as those ZESCO signs with IPPs) must be approved by the regulator.

2.1.2 System Operator and Network Service Providers.

The Act designates roles for system operators, **transmission network service providers** (TNSPs) and **distribution network service providers** (DNSPs). **Section 10** instructs the system operator which in Zambia's case is ZESCO, to operate the transmission network and interconnectors, balance flows and ensure security. **Section 11** defines a TNSP's duties which is to maintain the transmission grid, and "determine the terms and conditions for the provision of transmission services to network users in a non-discriminatory and cost-reflective manner". Critically, the TNSP "shall allow producers and suppliers to access a transmission network in accordance with this Act, the conditions of the relevant license and the grid code". Similarly, **Section 12** requires a DNSP which again is effectively ZESCO, to maintain a secure distribution system, ensure non-discrimination among users, and provide necessary system information. Both Sections 11–12 therefore embed open-access principles in law which basically provide that licensed generators or suppliers must be given access to the grid on equal terms.

2.1.3 Connection and Open Access

In line with open-access policy, **Section 13** obliges any TNSP or DNSP to "connect a person who (a) satisfies the terms and conditions for connection as provided in the grid code; and (b) enters into an agreement with the TNSP or DNSP". In practice this means if an IPP or large consumer meets technical and grid-code requirements, ZESCO cannot arbitrarily refuse connection. **Section 14** provides a formal procedure in that an applicant for network access submits to the TNSP/DNSP, which must approve or reject within 30 days. If the application is approved, the access is granted under license conditions. Rejection must be written with reasons, and the applicant can appeal to the ERB, which must decide within 60 days. Finally, **Section**

15 allows the Minister to declare specific transmission or distribution lines as common carriers, making them available to any enterprise on Board-approved terms. Although Zambia has not yet publicly designated lines as common carriers, this provision exists to enforce de facto open access if needed.

2.1.4 Critical Assessment

On paper, the 2019 Act creates a liberal framework in that anyone may apply to generate power, must obtain a license or authorization, and once licensed has enforceable rights to connect and access the grid on nondiscriminatory terms. By law, ZESCO's networks are common carriers, open to third parties (subject to charges), and ERB approval is required before ZESCO or any buyer enters PPAs. These rules aim to prevent closed contracts or grid blocking. In practice, however, ZESCO remains both the network owner and operator, with control over access and contracts. New IPPs have complained of onerous "take-or-pay" PPA terms and delays in ERB approvals. The effectiveness of Sections 13–14's open-access rules depends on the regulator's will to enforce them. To date, ZESCO still dominates dispatch (as system operator) and negotiates most PPAs, so the Electricity Act's provisions have been only a partial check on its power. In effect, the Act has enabled greater private generation by permitting it and mandating access, but has not significantly curtailed ZESCO's control over the system given its entrenched role.

2.2 THE ENERGY RECULATION ACT 2019: LICENSING AND OVERSIGHT

The Energy Regulation Act reconstituted the Energy Regulation Board (ERB) and established a single licensing regime for all energy activities[36]. Under **Section 9**, ERB issues energy sector licenses covering generation, transmission, distribution, supply, and fuel trade, under the Business Regulatory Act framework. **Section 10** makes it an offence to operate any energy enterprise without a license. Thus, ZESCO's subsidiary companies hold licenses, and any IPP or new supplier must likewise be

[36] Act No. 12 of 2019

licensed. The single-license model theoretically simplifies entry, but in practice licensing requirements (technical, financial vetting, grid studies) remain stringent.

2.2.1 ERB's Mandate to Promote Competition

Section 4(4)(b) empowers ERB jointly with the Competition and Consumer Protection Commission (CCPC), to "investigate and monitor the levels and structures of competition within the energy sector" and "develop and implement appropriate rules to promote competition in the energy sector"[37]. This is the first explicit mention of competition policy in Zambia's energy law. In theory, ERB can, for example, set rules to break vertical integration or require ring-fencing. **Section 4(4) (k)** further charges ERB with approving, reviewing and regulating PPAs and power supply agreements, giving the regulator direct oversight of ZESCO's purchase contracts. ERB also "determines, regulates and reviews charges and tariffs" across the sector. Through these powers, the ERA visualizes ERB as a strong regulator that can impose performance standards, codes, and directives to protect the public interest.

2.2.2 Critical Assessment

ERA 2019 expands regulatory authority but does not explicitly break up ZESCO. By reaffirming ERB's independence, the Act provides a mechanism to restrain ZESCO if the Board chooses. The requirement that PPAs be approved (in both the ERA and the Electricity Act) gives ERB a lever to negotiate terms. Likewise, joint oversight with CCPC suggests competition concerns can be raised. However, in practice the ERB has little autonomy from government policy and has mostly maintained the status quo. Tariffs remain regulated (ZESCO cannot set prices without ERB consent), but ZESCO's large off-taker role means that ERB approvals of PPAs and tariffs have largely rubber-stamped ZESCO's deals. The ERA has mechanisms for non-discrimination and consumer protection, but implementation is uneven. In summary, the ERA enables competition in principle (requiring licenses for all and

[37] Ibid.

tasking ERB with pro-competition duties), but has not fundamentally diminished ZESCO's dominant integrated structure.

2.3 COMPETITION LAW AND ABUSE OF DOMINANCE

Beyond the sector-specific laws, Zambia's general competition law, **the Competition and Consumer Protection Act, 2010 (amended 2023)**, theoretically constrains market power. **Section 15** of that Act defines a "dominant position" as an enterprise supplying 30 percent or more of a product or service[38]. Clearly, ZESCO's market share in generation and supply far exceeds 30 percent. **Section 16(1)** then prohibits any act that, through abuse of a dominant position, unduly restrains competition or adversely affects trade[39]. Notably, "denying access to an essential facility" directly targets conduct like barring competitors or IPPs from the grid if it is deemed essential. If ZESCO's actions fell under these prohibitions, the Competition Commission could impose penalties up to 10 percent of turnover or remedies.

2.3.1 Critical Assessment

In theory, competition law makes ZESCO's position vulnerable in that its share of supply which is reportedly Eighty (80) percent implies dominance[40]. Any refusal by ZESCO to wheel power, or any discriminatory connection fees, could constitute abuse. However, enforcement has been virtually non-existent. ZESCO's status as a state-owned utility has shielded it from inquiry, and the Competition Commission has no reported public cases against ZESCO for dominance abuse. In fact, Zambia's power contracts and network rules are mostly governed by sector regulators, not competition authorities. While the legal framework is clear, Zambia's economic and political reality means the Competition Act has not been an effective curb on ZESCO.

[38] Act No.24 of 2010.
[39] Ibid.
[40] Hunton Insights Legal Updates *'Zambia: Open Access Regime'* https://www.hunton.com/insights/legal/zambia-open-access-regime#:~:text=Currently%2C%20the%20Zambian%20energy%20sector,investment%20to%20Zambia%E2%80%99s%20energy%20sector

Interestingly, even the Act now recognizes regional competition law in that it incorporates COMESA Competition Regulations for cross-border issues[41], but this has no bearing on ZESCO's domestic monopoly. In sum, competition law permits action against ZESCO's potential abuses, but in practice offers no real check.

2.4 INSTITUTIONAL MECHANISMS AND LICENSING FRAMEWORKS

Beyond statutes, several institutional practices reinforce ZESCO's dominance. Chief among these are Power Purchase Agreements (PPAs) and licensing/permit processes.

2.4.1 Power Purchase Agreements

Zambia's expansion of IPP generation has largely occurred under direct PPAs with ZESCO as the sole off-taker (often with government guarantees). These PPAs typically contained "take-or-pay" clauses obliging ZESCO to pay for contracted capacity regardless of dispatch. Such arrangements can saddle ZESCO with debt and skew generation economics. Recognizing this, the law now requires ERB approval of all PPAs to prevent imprudent contracts. In practice ERB has approved the PPAs, but only in recent years (2023) has ZESCO renegotiated terms to relieve its debt burden. The combination of a single buyer model, a regulator obliged to rubber-stamp agreements, and contractual features favoring providers, has meant that PPAs became a tool through which ZESCO's off-take role was codified rather than challenged.

2.4.2 Licensing and Permits

Every IPP and independent distributor must navigate ERB's licensing system. The ERA mandates that all energy activities require licenses, and even small generators must meet technical/environmental requirements under the Electricity Act[42]. While these rules are intended to ensure reliability and safety, they also give ZESCO and

[41] Act No.24 of 2010.

[42] Ministry of Energy, National Energy Policy (MoE, 2019) 19.

ERB gatekeeping power. Applicants must submit feasibility studies, grid impact assessments, and environmental clearance. Delays or onerous conditions in licensing can deter new entrants. Moreover, the Electricity Act's requirement that expansion of capacity be approved by Section 7 of the ERB means that ZESCO, as the primary licensee, has the inside track on new projects.

2.4.3 Grid Access Requirements

As noted above, the Act provides for open access (s13–14), but conditions apply. Under the 2024 Open Access Regulations (promulgated under the Electricity Act), only eligible parties like licensed traders, suppliers or consumers with more 1 MW capacity may apply, and they must show financial fitness and pay for network upgrades. The Transmission and Distribution Network Service Provider evaluates applications based on available capacity and other users' plans. After a preliminary approval, the application goes to the System Operator, which may block access if it would cause congestion. Thus, in reality the same entity (ZESCO) plays multiple roles in granting access, raising concerns of conflict. Only if the Network Provider or System Operator reject an application must they notify reasons to the applicant. As a result, although Zambia's law on paper mandates open access, ZESCO's control of the grid and discretion over capacity significantly shapes who can use it. In effect, ZESCO's established position means that genuine third-party retail or wheeling business is still emerging. Zambia's institutions and procedures from PPA approvals to licensing to open-access processing have only modestly loosened ZESCO's grip. The statutory framework permits competition and third-party participation, but because ZESCO remains the incumbent licensee and the regulator defers to existing contracts, the status quo largely persists.

2.5 CONCLUSION

In conclusion, Zambia's 2019 legal reforms (Electricity Act and ERA) formally enable a competitive energy market with licenses for all generators, open grid access, and a regulatory mandate to promote competition. In practice, however, the same structures being ZESCO's ownership of assets and its entrenched licensing status, endure. Competition law provides tools against abuse, but enforcement has been weak and until ERB and other institutions actively leverage these laws by enforcing open access, scrutinizing PPAs, or requiring ZESCO to unbundle, Zambia's reforms have only partially translated into market change. To date, Zambia's framework has enabled new entrants to some extent, but it has largely failed to curtail ZESCO's dominant position due to the lack of stronger implementation and oversight.

CHAPTER THREE:

EVALUATION OF THE EFFECT OF THE COMPETITION AND CONSUMER PROTECTION ACT EXEMPTION AND THE COMMISSIONS ENFORCEMENT CAPACITY ON MARKET ENTRY AND COMPETITON

3.0 INTRODUCTION

Zambia's electricity sector has for a long time, been dominated by the state-owned ZESCO Limited. Despite reforms, ZESCO still owns a large majority of the grid and purchases roughly 80% of power produced[43]. In 2019 the government enacted a new Electricity Act and established an independent Energy Regulation Board (ERB), introducing an open-access regime for independent power producers (IPPs) under Electricity (Open Access) Regulations 2024[44]. In principle these changes have aimed to allow IPPs and large consumers to trade electricity on the grid in a fair manner, promoting investment and lowering prices[45].

However, Zambia's **Competition and Consumer Protection Act 2010 (CCPA)** contains provisions that have effectively limited antitrust oversight of the electricity market. Notably, **Section 3(4) (e) of the CCPA** exempts from competition law "the business of any enterprise exercising a statutory monopoly which precludes the entry of another enterprise into the relevant market"[46]. In practice this means an enterprise like ZESCO, historically a legal monopoly, has been treated as outside the reach of the Competition Commission for its core power activities. This exemption, together with the Commission's relatively modest enforcement record, has raised concerns about the ability of competition law to protect market entry and competition in electricity. The energy sector (including electricity, petroleum, gas and water) has

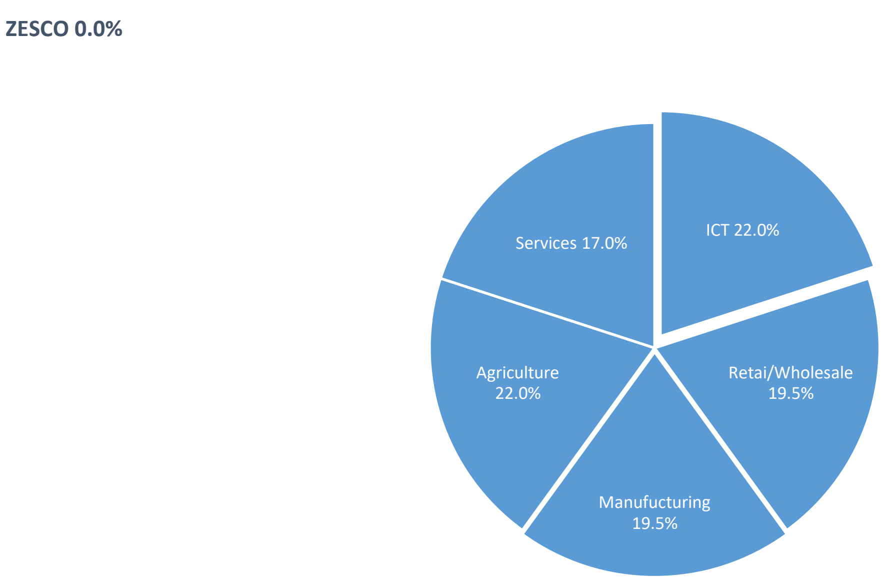
[43] https://www.hunton.com/insights/legal/zambia-open-access-regime#:~:text=Currently%2C%20the%20Zambian%20energy%20sector,investment%20to%20Zambia%E2%80%99s%20energy%20sector
[44] Ibid.
[45]https://www.ccpc.org.zm/details/90#:~:text=preparation%20of%20an%20opinion%20paper,ensure%20a%20competitive%20energy%20market
[46] Act No. 24 of 2010.

been excluded from competition law by virtue of its specific regulatory framework, creating regulatory uncertainty and a need for serious legislative reform[47].

In this chapter, we examine the statutory exemptions in the CCPA that apply to electricity, assess the CCPC's enforcement capacity and track record, and analyze how the combination of these legal and institutional factors affects market entry and competition, especially for IPPs. We also compare Zambia's approach to those in other jurisdictions like Kenya where competition authorities play a more active role in energy markets.

Figure 3 below shows how, despite concerns about ZESCO's dominance, the CCPC has not taken any formal enforcement action in the electricity sector, specifically against ZESCO Limited[48].

Figure 3: CCPC Enforcement Cases by Sector (2024).



[47] https://cuts-lusaka.org/pdf/Enforcing_Competition_Law_in_Zambia.pdf#:~:text=displaced%20by%20industry%20%E2%80%93%20specific,otherwise%2C%20should%20no%20longer%20be

[48] 'Competition and Consumer Protection Commission Judgments' <https://www.ccpc.org.zm/judgements> accessed 3 October 2025.

3.1 STATUTORY EXEMPTIONS

The CCPA is Zambia's primary competition law, and its scope of application is set out in Section 3. Section 3(1) provides that "Except as otherwise provided for in this Act, this Act applies to all economic activity within or having an effect within Zambia". However, Section 3(4) lists specific exclusions. Of these, the key exemption for electricity is found in paragraph (e) which excludes "the business of any enterprise exercising a statutory monopoly which precludes the entry of another enterprise into the relevant market in Zambia". In practical terms, this has been interpreted to cover ZESCO Limited. Historically ZESCO was granted a nationwide monopoly by earlier laws which were formally ended by the 1995 Electricity Act, but its dominant control of generation, transmission and distribution still persists. Under Section 3(4) (e), such a statutory monopoly is not subject to the Act, provided that the enterprise does not itself enter into anti-competitive agreements or otherwise abuse its dominance in ways that trigger other provisions.

Section 42 of the CCPA further clarifies that regulated sectors are generally covered subject to section 3. It states that; "Subject to section 3, the economic activities of an enterprise in a sector where a regulator exercises statutory powers is subject to the requirements of this Act". In other words, activities in regulated industries (like energy) fall under the CCPA only to the extent Section 3 does not exempt them. In practice the Section 3(4) (e) exemption has proved decisive. As a CUTS study observes, sectors with specific regulatory frameworks, including electricity, have been treated as implicitly excluded from Zambia's competition law[49]. This has generated regulatory uncertainty for electricity. Some analysts argue the law should be amended to remove the exemption and bring energy activities under full CCPA scrutiny[50].

The other substantive provisions of the CCPA do not carve out electricity specifically. For example, Section 16(1) of the Act broadly prohibits any enterprise from "practices or conduct that unduly restrain competition", and Section 16(2) lists abuses of dominance. Crucially, Section 16(2) (e) makes "denying any person access to an

[49] CUTS, '*Enforcing Competition Law in Zambia'* (Zambia Consumers Association, 2002).

[50] Ibid 29.

essential facility" a form of abuse. If applied, this would directly target conduct such as a grid owner refusing IPPs access to transmission capacity. But because of Section 3's exemption, an enterprise like ZESCO may claim its conduct is outside competition law altogether. In sum, the CCPA's text gives the Competition Commission legal power over electricity competition in theory, but Section 3(4) (e) creates a carve-out that has largely insulated the sector which is an effect that observers highlight as an anomaly requiring legislative change[51].

3.2 CCP ENFORCEMENT CAPACITY AND TRACK RECORD

The **Competition and Consumer Protection Commission (CCPC)** was established by the CCPA to enforce Zambia's competition law. The Commission is empowered to investigate restrictive business practices, cartels, abuses of dominance and mergers[52]. Under Sections 36 and 37 of the CCPA, CCPC can launch market inquiries and issue interim orders, and under Part VI it can impose administrative penalties (up to 10% of turnover) for violations[53]. Thus, on paper it is clear that the CCPC has extensive authority to police anti-competitive conduct in energy, including investigating agreements, practices, and abuses of market dominance and issuing directives or fines[54].

In practice, however, the CCPC's competition enforcement has been modest. Annual reports and press releases indicate that enforcement activity has focused on sectors like retail, manufacturing, ICT and agriculture, with little or nothing in energy. For example, the CCPC's 2024 annual statement notes that the Commission handled 41 cases of restrictive business practices (RBP), up 32% from the previous year, across information and communication technology, retail/wholesale, services, agriculture and manufacturing sectors. It also opened 10 investigations into cartels (mostly in agriculture and manufacturing). Merger review was active in that merger notifications rose from 63 to 103 in 2024, including cross-border filings through the COMESA

[51] Ibid 43.
[52] R.Gates, '*Renewable Energy and Regulations Zambia',* (ICLG, 2024).
[53]Act no.24 of 2010.
[54] R.Gates, '*Renewable Energy and Regulations Zambia',* (ICLG, 2024).

Commission[55]. In contrast, no enforcement actions or published investigations were reported in the electricity sector. Notably, six cases of alleged dominance abuse were investigated in 2024, but all six cases were closed with no fines being imposed because abuse could not be conclusively proven. This suggests the CCPC is still building capacity and confidence in handling dominance cases, but it has not applied its powers against ZESCO or IPPs.

Several factors underlie the CCPC's limited track record. The agency is relatively new as it was inherited the former Competition Commission and has faced resource constraints. Its budget and staffing levels have historically been small, limiting the scope of investigations. Moreover, the CCPC operates alongside powerful sector regulators. In energy, the ERB and Ministry of Energy set many of the rules, leaving competition law as a secondary safeguard. The Act itself anticipates coordination, but Section 43 requires CCPC to sign memoranda of understanding with sector regulators. Indeed, the CCPC has engaged in policy research rather than enforcement in electricity. In 2024 it published an opinion paper on Zambia's Open Electricity Access Policy, analyzing its impact on IPPs and competition. In that paper the Commission praised the policy for facilitating IPP grid access, but warned that without clear enforcement of competition rules there is a risk of market foreclosure and abuse by the incumbent[56]. The CCPC thus appears to play more of an advisory role in energy, highlighting concerns, rather than using its legal powers.

The rareness of actual cases is plain. The Commission itself has noted that it encourages the public to report any anti-competitive conduct that may distort fairness in various markets, but to date ZESCO's alleged anti-competitive actions like discriminatory pricing or refusal to wheel power, have not been tested in CCPC proceedings. No public CCPA cases are listed against ZESCO or related entities. Commentators point out that the CCPC has no reported instances of challenging

[55]https://www.ccpc.org.zm/details/90#:~:text=preparation%20of%20an%20opinion%20paper,ensure%20a%20competitive%20energy%20market

[56] Ibid.

ZESCO, despite its de facto monopoly. In short, apart from routine cartel and consumer cases in other industries, the CCPC has almost entirely abstained from enforcing competition law in the electricity sector. This limited enforcement capacity, whether due to legal exemption, resource limits, or political sensitivity, means that the statutory prohibition on abuse of dominance (Sec 16) and other competition rules have had little to no practical effect on electricity market structure.

3.3 IMPLICATIONS FOR MARKET ENTRY AND IPPs

The combination of the CCPA's exemption and weak enforcement has directly implicated competition and new entrants in Zambia's power market. Independent Power Producers (IPPs) were introduced as part of the sector reforms to increase supply and efficiency. On paper, IPPs can obtain generation licenses from the ERB and connect to the grid under open access rules[57] but in practice, however, they remain heavily dependent on ZESCO Limited. ZESCO continues to operate the transmission network and is the default off-taker under power purchase agreements by a big margin. It is observed that ZESCO controls the majority of transmission and distribution and purchases about 80% of all electricity sold. This gives ZESCO immense gatekeeping power in that any new generator or distributor must feed into ZESCO's grid.

If enforced, the CCPA could in theory curb exclusionary conduct by ZESCO. For example, Section 16(2) (e) prohibits denial of access to an essential facility, a provision clearly applicable to grid access. Discriminatory wheeling charges or refusal to allow IPPs to transmit power could be challenged as abuse of dominance. However, because ZESCO has been treated as exempt, it has faced no such challenge. Instead, IPPs have largely relied on negotiated terms with ZESCO. The CCPC itself has warned that without competition enforcement "the risks of market

[57] https://www.hunton.com/insights/legal/zambia-open-access-regime#:~:text=Currently%2C%20the%20Zambian%20energy%20sector,investment%20to%20Zambia%E2%80%99s%20energy%20sector

foreclosure, dominance abuse, and pricing opacity persist despite liberalization policies"[58].

In summary, the current regime gives limited protection to IPPs. The Act's prohibition on anti-competitive agreements and abuse is neutralized by the monopoly exemption, and the CCPC has not used its powers to discipline ZESCO. Consequently, IPPs often confront non-competitive contract terms and must depend on the goodwill of the other party. In such a situation monopolies can set prices above competitive levels and stifle innovation and it is no secret that indeed, power tariffs in Zambia have risen sharply in recent years, contributing to public discontent. While the new open access regulations are intended to attract investment and lower costs the benefits will be difficult to realize if the competition law framework remains de facto inactive.

Overall, the legal exemption and enforcement gap basically comes together to raise entry barriers. Potential entrants may be deterred by the risk that ZESCO could limit their market through delayed grid connections, opaque pricing or negotiating leverage. Even foreign investors note that Zambia's high-voltage grid had long been an essential facility under sole control of ZESCO, until open-access rules came into effect only in 2024. Without CCPC intervention, IPP's ability to challenge exclusionary conduct is weak, so the market remains far from fully contestable. The CCPC has recommended clearer regulatory frameworks and strong enforcement to ensure the electricity market becomes competitive, indicating awareness of these issues.

3.4 CONCLUSION

In conclusion, Zambia's electricity sector remains largely insulated from the full force of competition law due to the statutory exemption in Section 3(4) (e) of the Competition and Consumer Protection Act 2010 and the limited enforcement record of the Competition and Consumer Protection Commission. Although provisions such as

[58] Bowmans: Kenya, South Africa and Zambia: Open electricity market reforms – comparisons and lessons learned
Kenya, South Africa and Zambia: Open electricity market reforms – comparisons and lessons learned

Section 16 on abuse of dominance could, in principle, address practices like denial of access to essential facilities or discriminatory conditions, these safeguards have not been applied in practice against ZESCO, whose role as both grid operator and principal off-taker entrenches its dominance. Independent Power Producers, while theoretically supported by the Electricity Act 2019 and the Open Access Regulations 2024, continue to face significant barriers to entry and weak protection against anti-competitive conduct. So unless Zambia removes or reforms the monopoly exemption and strengthens the CCPC's enforcement capacity, ZESCO's dominant position will likely persist and the broader objectives of liberalization, including greater investment, efficiency and consumer welfare, will definitely remain unrealized.

CHAPTER FOUR:

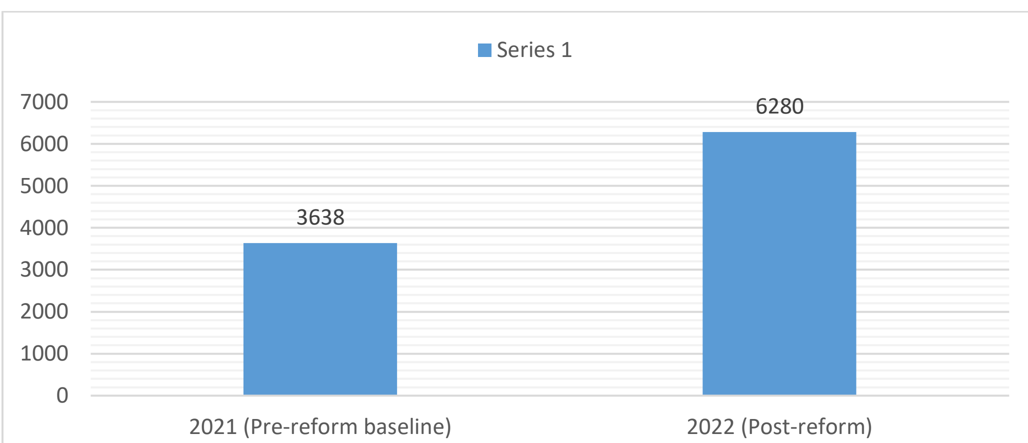
LEGAL AND REGULATORY REFORMS TO CURB ANTI-COMPETITIVE CONDUCT IN ZAMBIA WITH LESSONS FROM KENYA

4.0 INTRODUCTION

This chapter proposes concrete legal and regulatory reforms to curb ZESCO's anti-competitive conduct, as well as facilitate independent power producers (IPPs), and make Zambia's power market more contestable while ensuring reliable supply, getting key lessons from Kenya. In summary, the goal is to align Zambia's laws and institutions with open-market principles without undermining system stability. The proposed reforms fall into four areas which will include; strengthening competition law enforcement, restructuring sector regulation and ZESCO's role, improving IPP access to the grid and fair contracting, and enhancing market contestability and consumer choice. These proposed reforms shall be drawn on comparative lessons from Kenya.

Figure 4 below illustrates the dramatic rise in IPP power output following the 2019 reforms. After new electricity laws and policies, generation by IPPs jumped from 3,638 GWh in 2021 to 6,280 GWh in 2022, a 73% increase[59].

Figure 4: Growth in IPP Electricity Generation After 2019 Reforms.



[59] 'Energy Regulation Board: ENERGY SECTOR REPORT'.

4.1 COMPARATIVE LEGAL FRAMEWORK: KENYA'S ELECTRICITY AND COMPETITION REGULATION

4.1.1 The Energy Act 2019 and the Role of EPRA

Kenya's Energy Act 2019 consolidated energy laws into a unified framework, establishing the Energy and Petroleum Regulatory Authority (EPRA). EPRA is mandated to regulate generation, transmission, distribution, and retail supply of electricity while promoting competition, efficiency, and reliability[60]. Section 11(1) (d) of the Act empowers EPRA to issue, amend, or revoke licenses, approve power purchase agreements (PPAs), and monitor the structure of the market[61]. This provision ensures that EPRA plays both a supervisory and a competition-enhancing role within Kenya's energy sector. The Act requires EPRA to conduct regular market reviews to enhance efficiency and competition in line with national energy objectives[62].

4.1.2 The Competition Act and CAK Oversight

Kenya's Competition Act applies economy-wide, including to the electricity sector. Section 2 defines electricity as a 'good', thereby subjecting it to the Act's provisions[63]. The Competition Authority of Kenya (CAK) enforces the Act, investigating cartels, abuse of dominance, and restrictive trade practices. Section 24 prohibits dominant enterprises from engaging in practices that limit market access or impose dissimilar conditions on equivalent transactions[64]. Importantly, the Act contains no exemptions for state-owned enterprises, ensuring that entities such as Kenya Power and Lighting Company (KPLC) remain subject to competition oversight. CAK also reviews mergers and acquisitions, preventing undue concentration in the energy market.

4.1.3 Vertical Separation and Open-Access Enforcement

Kenya's electricity market is characterized by vertical unbundling, with distinct entities responsible for generation (KenGen and Independent Power Producers),

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[60] 'Power Generation, Transmission & Distribution 2025 - Kenya | Global Practice Guides | Chambers and Partners'
[61] Cap 314 of 2019.
[62] Ibid.
[63] Cap 505 of 2022.
[64] Ibid.

transmission (KETRACO), and distribution (KPLC)[65]. The Energy Act mandates non-discriminatory open access to transmission and distribution networks. Regulation 16 of the Energy (Electricity Licensing) Regulations 2012 requires all network licensees to provide third parties with access to their systems on equal terms[66]. This separation prevents anti-competitive foreclosure and allows Independent Power Producers to sell directly to large consumers under fair access conditions.

4.2 KEY REFORM LESSONS FROM KENYA RELEVANT TO ZAMBIA

Kenya provides a point of contrast. Kenya's Energy Act and Competition Act both aim at liberalizing the power sector and protecting competition. The Competition Act of Kenya does not exempt energy. Electricity is included in the definition of "goods"[67], and no specific carve-out appears. In practice, Kenya has implemented an open electricity market with an independent regulator (Energy & Petroleum Regulatory Authority). Crucially, Kenyan law explicitly integrates competition oversight into energy transactions. For example, Kenya's recent energy sector licensing regulations require that any change of control or significant transaction in a licensed energy business must first obtain Competition Authority approval[68]. This means the Competition Authority of Kenya (CAK) has a built-in review role over mergers and acquisitions in electricity, ensuring competition concerns are addressed. Kenya has also seen investigations of sector conduct; for instance, the CAK has established guidelines on buyer power and has in the past reviewed pricing in agriculture and fuel markets showing it will take on powerful players when needed. While Kenya still faces competition challenges in energy, its legal framework gives the competition authority clear reach, unlike Zambia's explicit exemption.

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[65] Kenya: Competition (Amendment) Bill, 2024 – A new chapter in competition law enforcement Kenya: Competition (Amendment) Bill, 2024 – A new chapter in competition law enforcement

[66] Energy (Electricity Licensing) Regulations 2012.

[67] Competition Act Cap. 504 No. 4 of 2011

[68] https://www.cliffedekkerhofmeyr.com/news/publications/2025/Sectors/Projects-Energy/projects-energy-alert-9-april-merger-control-in-the-Kenyan-energy-sector-#:~:text=whether%20there%20are%20any%20notification,obtains%20Competition%20Authority%20approval%20first

4.2.1 Removal of Statutory Exemptions

Kenya's Competition Act does not exclude electricity or any regulated sector from antitrust enforcement. Zambia's Competition and Consumer Protection Act, by contrast, exempts statutory monopolies under Section 3(4) e). In *MCI Communications Corp. v. AT&T*[69], the court held that AT&T's local network was an "essential facility" for long-distance competitors and that AT&T could not lawfully refuse interconnection without a valid justification[70]. This exemption has shielded ZESCO from competition oversight. Zambia can emulate Kenya by repealing this clause to ensure that the CCPC can investigate and penalize anti-competitive behaviour in the electricity sector.

4.2.2 Strengthening the Regulator's Pro-Competition Mandate

EPRA's statutory duty to promote competition demonstrates the importance of an empowered regulator. Zambia's Energy Regulation Board (ERB) should similarly be mandated to monitor competition and market structure. This may require amending the Energy Regulation Act 2019 to grant ERB explicit authority to collaborate with the CCPC in enforcing pro-competitive measures and investigating discriminatory practices.

4.2.3 Guaranteeing and Enforcing Open Access

Kenya's framework ensures that Independent Power Producers can connect to and use the grid without discrimination. Zambia's open-access provisions under the 2024 Regulations are a step forward but lack strong enforcement[71]. Kenya's model shows that open access should be codified as a statutory right, with penalties for refusal or unreasonable delay by dominant utilities[72].

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[69] 708 F.2d 1081, 7th Cir. 1983.

[70] MCI Communications Corp. v. AT&T Co., 708 F.2d 1081 (7th Cir. 1983) :: Justia

[71] Bowmans: Kenya, South Africa and Zambia: Open electricity market reforms – comparisons and lessons learned Kenya, South Africa and Zambia: Open electricity market reforms – comparisons and lessons learned

[72] Ibid.

4.2.4 Preventing Vertical Integration

The prohibition of vertical integration in Kenya prevents one entity from controlling multiple levels of the value chain. Zambia should incorporate a similar rule by ensuring that no single company holds licenses for generation, transmission, and distribution simultaneously. This would reduce conflicts of interest and enhance genuine market competition.

4.2.5 Enhancing Enforcement Powers and Transparency

Kenya's CAK has robust powers, including the ability to impose fines of up to ten percent of annual turnover and order divestitures[73]. These tools deter anti-competitive conduct. Zambia's CCPC should be granted comparable authority and adequate resources to pursue complex competition cases in the energy sector. Transparency in PPA approval processes would further strengthen accountability.

4.3 PROPOSED LEGAL AND REGULATORY REFORMS FOR ZAMBIA'S ELECTRICITY SECTOR

4.3.1 Amendments to the Competition and Consumer Protection Act

Zambia should amend Section 3(4) (e) of the Competition and Consumer Protection Act to remove the exemption for statutory monopolies. This amendment would extend the Act's coverage to the electricity sector, enabling the CCPC to investigate ZESCO for potential abuses of dominance such as refusal to wheel power or discriminatory pricing.

4.3.2 Empowering the ERB to Promote Competition

The Energy Regulation Act should be revised to assign ERB a clear responsibility for market monitoring and competition promotion. The ERB should be required to publish annual reports on competition levels and coordinate with the CCPC in joint investigations of anti-competitive behaviour within the electricity market.

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[73] Kenya: Competition (Amendment) Bill, 2024 – A new chapter in competition law enforcement Kenya: Competition (Amendment) Bill, 2024 – A new chapter in competition law enforcement

4.3.3 Legislating Separation of Licenses and Market Roles

To prevent vertical foreclosure, Zambia should legislate that a single entity cannot simultaneously hold generation, transmission, and distribution licenses. This would mirror Kenya's regulatory practice and encourage the entry of Independent Power Producers, thereby increasing market diversity.

4.3.4 Strengthening CCPC–ERB Coordination

Zambia should establish a formal memorandum of understanding between the CCPC and ERB to facilitate coordination in enforcement[74]. This partnership would allow the ERB to refer technical matters to the CCPC, while the CCPC could request regulatory data to support investigations.

4.3.5 Oversight of PPAs, Mergers and Consumer Protection

Building on Kenya's experience, Zambia should require all large Power Purchase Agreements and mergers in the energy sector to undergo competition review. Moreover, consumer protection should be strengthened through transparent licensing and tariff-setting processes, ensuring fair treatment of all market participants.

4.4 IMPLEMENTATION CONSIDERATIONS AND LEGAL HARMONISATION

4.4.1 Legislative Synchronization

To avoid overlap, Zambia's competition and energy laws should be harmonised to ensure consistency and clarity. Key terms such as "dominant position" and "licensee" must be defined uniformly in both Acts. This alignment would prevent conflicting interpretations and promote cooperation between the CCPC and the ERB. Harmonisation will also reduce duplication of roles and create a coherent framework for enforcement.

[74] Kenya: Competition (Amendment) Bill, 2024 – A new chapter in competition law enforcement Kenya: Competition (Amendment) Bill, 2024 – A new chapter in competition law enforcement

4.4.2 Transitional Arrangements

Zambia should introduce transitional provisions to manage the shift toward full competition oversight. Existing contracts and licenses should remain valid during a transition period, while new entrants operate under the revised regime.

4.4.3 Institutional Capacity and Independence

Both the CCPC and ERB require enhanced resources, expertise, and autonomy. Training staff in energy economics and competition law, coupled with adequate funding, will ensure effective implementation.

4.4.4 Dispute-Resolution and Jurisdictional Clarity

To avoid conflicts between institutions, the amended laws should specify procedures for resolving competition-related disputes in the energy sector. For instance, appeals could be directed to the Competition Tribunal, ensuring a streamlined process.

4.4.5 Regional and International Alignment

Zambia's reforms should align with regional standards under the COMESA and SADC frameworks, which emphasize open access and cross-border competition in energy markets.

4.5 COMPARATIVE PERSPECTIVE: KENYAN REFORMS

Kenya's recent energy reforms offer instructive parallels. The Energy Act, 2019 and follow-up regulations have set up an open wholesale market and strengthened IPP participation[75]. Kenya's market is unbundled: KenGen (gen.) sells to KPLC via KETRACO (grid operator), all under the oversight of the independent EPRA regulator. Importantly, Kenya's open access regulations that were issued in 2024 envision shifting from a single-buyer model to a "central market" where IPPs can sell to licensed retailers or large consumers[76]. Under these rules, IPPs may contract directly with large customers by wheeling power through the grid. The framework includes a central trading platform (spot and long-term markets), and keeps existing PPAs in force while new generation joins the market pool. Early drafts also clarify wheeling procedures:

[75] Kenya, South Africa and Zambia: Open electricity market reforms – comparisons and lessons learned

[76] Ibid.

large consumers pay a wheeling fee to the network operator and receive bill credits for imported energy, similar to South Africa's approach[77].

Crucially, Kenya's competition law does not exempt the energy sector. The Competition Act 2010, as amended, applies broadly and in 2024 Kenya even introduced a concept of "abuse of superior bargaining position" to protect all market players[78]. Kenyan regulators are empowered to intervene in electricity issues under general competition provisions[79]. By contrast, Zambia's blanket exemption places energy outside CCPC reach. Adopting Kenya's model would mean the CCPC could, for example, penalize anti-competitive contracts or cartel behavior in the power sector just as it does in others[80]. Zambia should therefore emulate Kenya by fully integrating energy under competition rules. At the same time, Zambia can learn from Kenya's implementation challenges. For instance, Kenya has suffered occasional grid shortages as demand outstrips transmission upgrades[81]. Zambia must ensure that open market gains do not come at the expense of reliability. This means phasing in reforms prudently, investing in network expansion, and retaining some central planning to guarantee a buffer of standby capacity.

4.6 CONCLUSION

Zambian statutes already authorize many pro-competitive rules (open access, licensing, network duties), but regulators must actively enforce them. Institutional changes, notably unbundling ZESCO's grid businesses and strengthening ERB will reduce conflicts of interest. Procedurally, streamlining IPP licenses, codifying grid-queue rules, and standardizing PPAs will in practice lower barriers to entry. Consumer

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[77] Ibid 14.

[78] Kenya: Competition (Amendment) Bill, 2024 – A new chapter in competition law enforcement Kenya: Competition (Amendment) Bill, 2024 – A new chapter in competition law enforcement

[79] Renewable Energy Laws and Regulations Zambia 2025 Renewable Energy Laws and Regulations Report 2025 Zambia

[80] Ibid.

[81] Kenya: Competition (Amendment) Bill, 2024 – A new chapter in competition law enforcement Kenya: Competition (Amendment) Bill, 2024 – A new chapter in competition law enforcement

choice can be expanded by allowing retail competition and self-generation, while clear pricing and auction mechanisms will promote efficiency.

Safeguarding system stability is the cross-cutting concern in that every reform should ensure that reliability and planning are not neglected. In practice, the experience of Kenya suggests that gradual implementation preserving key public duties while introducing competition is wise. As one Bowmans analysis notes, a transitional "gradual approach to unbundling" and careful refinement of market rules will help avoid unintended blackouts[82]. If implemented comprehensively, these reforms would reduce ZESCO's entrenched advantages, unlock new private investment, and give consumers alternatives all while keeping the lights on. The Electricity Act 2019 and related regulations provide a sound foundation in that these suggestions build on that legal framework by removing remaining obstacles. In effect, the reforms would ensure that Zambia's legal regime gives teeth to the policy of an open grid[83], so that competition can flourish without compromising system security.

[82] Kenya, South Africa and Zambia: Open electricity market reforms – comparisons and lessons learned Kenya, South Africa and Zambia: Open electricity market reforms – comparisons and lessons learned

[83] Ibid.

CHAPTER FIVE:

CONCLUSION AND RECOMMENDATION

5.0 INTRODUCTION

This final chapter synthesizes the findings of the dissertation and addresses the research questions. It first outlines the general conclusions drawn from the analysis of Zambia's electricity reforms and ZESCO's market power. It then provides brief summaries of each chapter's contributions, highlighting how chapters one through four collectively built the argument. Next, a series of specific recommendations is presented, directly drawn from the analysis in previous chapters, to address ZESCO's dominance and strengthen competition. Finally, the chapter offers an overall concluding reflection on the study's implications for Zambia's power sector.

5.1 GENERAL CONCLUSION

Despite the enactment of the 2019 Electricity Act and Energy Regulation Act to open the sector, ZESCO's dominance remains largely intact. The reforms created a formal framework of licenses and non-discriminatory access, but in practice ZESCO continues to own the vast majority of generation and the entire high-voltage grid. The Competition and Consumer Protection Act's carve-out for "statutory monopolies" has effectively immunized ZESCO's core operations from antitrust oversight. As a result, Independent Power Producers (IPPs) and other entrants still face significant barriers, and competition has not fully materialized. In short, the study finds that legislative changes alone have been insufficient; without vigorous enforcement and structural changes, ZESCO's entrenched position endures. The anticipated benefits of liberalization, improved efficiency, investment, and lower prices remain largely unrealized under the existing regime.

5.2 SUMMARY OF CHAPTERS

This dissertation comprises four substantive chapters, each examining a different aspect of ZESCO's market power and competition policy. Together, the chapters build a narrative from background to diagnosis to solution, showing that Zambia's power sector reforms remain fragile without further measures.

5.3 CHAPTER ONE

Chapter One introduces the study's scope, objectives and research questions. It describes ZESCO's historical monopoly in generation and its evolution after independence, noting that the 1995 Electricity Act formally ended ZESCO's exclusive status but it still controls roughly 90% of the sector. The chapter outlines the 2019 Electricity Act and Energy Regulation Act, which were designed to create a single licensing regime and allow IPPs into the market. However, it also points out continuing concerns in that ZESCO remains the sole owner-operator of the national grid, and Zambia's Competition Act explicitly exempts the energy sector from antitrust rules. The research problem and objectives were framed accordingly, questioning whether these reforms have in reality reduced ZESCO's market power or simply institutionalized its gatekeeping role.

5.4 CHAPTER TWO

Chapter Two assesses the legal and structural factors sustaining ZESCO's dominance under the 2019 regime. It explains that under the Electricity Act, all generation, transmission, distribution and supply require licenses, and currently ZESCO (and its affiliates) are the only large-scale licensees. The Act's Sections 11–14 enact open-access principles, obliging the system operator to connect qualified generators on non-discriminatory terms. In practice, however, ZESCO remains both the grid owner and the system operator, so it effectively controls access. The chapter concludes that although the new laws provide a liberal framework on paper, ZESCO's entrenched control of infrastructure and continued de facto single-buyer model mean that the 2019 reforms have only partially translated into market change. Without proactive enforcement of open-access rules and possible structural separation, ZESCO's asset ownership will continue to tip the market in its favor.

5.5 CHAPTER THREE

Chapter Three evaluates the impact of Zambia's competition law exemption and the Competition Commission's enforcement capacity on entry. It showed that Section 3(4)(e) of the Competition and Consumer Protection Act excludes any "statutory monopoly" (such as ZESCO) from antitrust oversight. Thus, despite having abuse-of-dominance rules like forbidding refusal of access to essential facilities, Zambia's competition authorities have largely left ZESCO's conduct unchecked. The chapter reviews the Competition and Consumer Protection Commission's limited track record, noting that in recent years no significant cases have targeted ZESCO or IPPs. By contrast, neighbouring countries have empowered regulators to challenge anti-competitive behaviour in power markets. The conclusion is that until Zambia amends the exemption and bolsters the CCPC's resources, the sector will remain insulated from competition law, allowing ZESCO's dominance to persist.

5.6 CHAPTER FOUR

Chapter Four looks as Kenya's experience and underscores how legal reform and active regulation can foster competition in that after Kenya passed its Energy Act and open-access regulations, independent power production surged up to 73% and market entry accelerated. Critically, Kenya's Competition Act contains no exemption for electricity, so its Competition Authority (CAK) fully enforces antitrust rules on utilities. Kenya also requires vertical unbundling and enforces non-discriminatory grid access. Chapter Four finds that Zambia should emulate these features as it recommends repealing Section 3(4) (e) of Zambia's Competition Act by ending the monopoly carve-out and giving regulators explicit pro-competition mandates. The chapter concludes that without such reforms and rigorous enforcement, ZESCO's entrenched dominance will persist.

5.7 RECOMMENDATIONS

Repeal the Electricity Exemption in Competition Law

Zambia should amend the Competition and Consumer Protection Act to delete or narrow Section 3(4) (e), subjecting ZESCO's activities to full antitrust scrutiny. This aligns with Kenya's model in regards to no sector carve-outs and enables the CCPC to use abuse of dominance rules against ZESCO.

Strengthen Competition Enforcement

Create a dedicated energy unit within the CCPC, fully fund it, and require the ERB to monitor market competition. For example, Kenya's EPRA is statutorily obliged to promote competition, so Zambia could similarly mandate ERB to report annually on market structure and coordinate with the CCPC. In addition formalizing an ERB–CCPC memorandum to share data and jointly investigate complaints, ensuring any anticompetitive contracts or grid access refusals can be challenged quickly.

Guarantee Open Grid Access

Legislate that ZESCO, as system operators, must grant non-discriminatory grid access to all qualified generators in the country. Thereafter, require all PPAs and connection agreements be filed with ERB/CCPC, with exclusivity clauses treated as presumptively illegal. Also publishing transparent wheeling tariffs like Kenya did under its 2024 market rules so that large consumers can buy power directly from IPPs.

Unbundle ZESCO's Services

Restructure the sector by separating ZESCO's monopoly transmission and distribution businesses from generation and retail. For instance, establish an independent Transmission Company and System Operator that operates outside from ZESCO. This removes ZESCO's incentive to favor its own plants and mirrors Kenya's vertically unbundled model. Also prohibiting any single entity from holding generation, transmission, and distribution licenses simultaneously can prove effective.

Facilitate IPP Entry

Simplify licensing and procurement for new generators. Adopt Kenya-like “first-ready, first-served” queue rules and competitive auctions for new capacity. Use standardized PPA templates to lower negotiation barriers. Zambia may also ensure ERB coordinates PPA approvals with the CCPC to prevent discriminatory terms, learning from Kenya’s practice of requiring Competition Authority clearance on energy sector transactions.

Expand Retail Competition

Allow large consumers to contract directly with IPPs or invest in self-generation. Enforce existing regulations that permit wheeling of power through ZESCO’s grid, coupled with clear metering and billing arrangements. For example, publish feed-in and wheeling tariffs and permit rooftop solar, as Kenya and South Africa do, to break ZESCO’s de facto retail monopoly.

Enhance Regulatory Oversight

Empower ERB to review major contracts and tariffs for fairness. Then require ERB to hold public hearings on tariffs and to monitor ZESCO’s service obligations, this would help guarantee ERB’s independence through fixed-term appointments. These steps, drawn from Kenya’s model of an independent energy regulator, will help ensure ZESCO cannot abuse its position.

5.8 CONCLUSION

The analysis throughout this dissertation shows that, despite recent reform laws, Zambia’s electricity sector remains dominated by ZESCO because the new rules have not been fully enforced. In practice, ZESCO’s control of the grid and contracts has been insulated by a statutory exemption and weak oversight. To remedy this, Zambia needs harmonized legal and institutional change, specifically, incorporating the electricity sector under the Competition and Consumer Protection Act and giving ERB and the CCPC explicit authority and resources to curb anti-competitive conduct. Institutional capacity must also be built like training, funding, and independent governance so that regulators can act without political interference. Learning from Kenya’s experience, where robust competition oversight and phased unbundling have encouraged IPPs, Zambia should pursue coherent reforms and enforce them consistently. Only with these reforms and strong implementation can Zambia break ZESCO's entrenched market power and foster meaningful competition in the power sector.

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UNIVERSITY of LUSAKA

SCHOOL OF LAW

L400B / Dissertation II – DIRECTED RESEARCH (OBLIGATORY ESSAY)

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Chapter 5 – Conclusions & Recommendations	01/1[illegible]/25		01-11-25
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