

Overview of the Regulatory Environment Regarding The Electricity Distribution Industry in South Africa



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Energy and Cooperative Governance and Traditional Affairs

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Who is NERSA

- ❑ The **National Energy Regulator (NERSA)** is a regulatory authority established as a juristic person in terms of Section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004).
- ❑ NERSA's mandate is derived from three (3) underlying statutes:
 - **ELECTRICITY** - Electricity Regulation Act, 2006 (Act No. 4 of 2006);
 - **PIPED-GAS** - Gas Act, 2001 (Act No. 48 of 2001); and
 - **PETROLEUM PIPELINES** - Petroleum Pipelines Act, 2003 (Act No. 60 of 2003).

Role of Energy Regulator

- ❑ In terms of Section 4 of the ERA, the Regulator must:
 - ✓ Consider applications for licences and may issue licences for:
 - The operation of generation, transmission and distribution facilities;
 - Trading, import and export electricity;
- ❑ Regulate Prices and tariffs;
- ❑ Register persons who are required to register with the Regulator where they are not required to hold a licence;
- ❑ Issue rules designed to implement the national government's electricity policy framework, the Integrated Resource Plan and the ERA;
- ❑ Enforce performance and compliance, and take appropriate steps in the case of non-performance;
- ❑ May –
 - ✓ Mediate disputes between generators, transmitters, distributors, customers or end users; and
 - ✓ Undertake investigations and inquiries into the activities of licensees.

Regulation of the EDI

- NERSA has licensed 189 electricity distributors (175 Municipalities, Eskom and 13 Private Distributors);
- The EDI business is regulated in terms of ERA;
- In addition, Sect 27 of ERA imposes specific obligations on the EDI players to conform with operating, quality and other standards and codes set by the Energy Regulator; and
- Licence conditions are issued and enforced by the Energy Regulator to ensure compliance by municipalities as licensees.

Tariff Issues

□ Determination of the guideline % increase

- Use of the current costs and cost structures of the municipalities -
 - To determine the weighting of the costs and cost structures.
- Establish the appropriate ranges of the various cost structures
 - Power Purchase cost for electricity;
 - Manpower costs (Salaries and wages);
 - Repairs and maintenance;
 - Capital charges; and
 - Other (e.g. shared services).
- Use the appropriate or determined % increases -
 - Eskom price increase for Power Purchase costs;
 - Salaries and Wages as determined by the MTBPS; and
 - Inflation (as determined by NT circulars) for Repairs, Maintenance and other.

Tariff Issues (cont...)

- On average the weighting of the different cost structures are:

Cost Category	% of total costs
Energy Purchases	70
Salaries & wages	10
Repairs & Maintenance	6
Capital Charges	4
Other costs	10
TOTAL	100

Tariff Issues (cont...)

DOMESTIC TARIFFS (IBTs)				COMMERCIAL 2000 kWh		INDUSTRIAL 43800 kWh (c/kWh)	ESKOM MEGA- FLEX
Domestic Block 1 0 – 50 kWh (c/kWh)	Domestic Block 2 51 – 350kWh (c/kWh)	Domestic Block 3 351 – 600 kWh (c/kWh)	Domestic Block 4 >600 kWh (c/kWh)	Prepaid	Conventio nal		
61 – 66	77 – 82	104 - 109	124 – 129	130 – 135	130 – 135	132 – 137	85.32

Notes: Determination of benchmarks

1. Eskom customers are connected at High voltage levels (Transmission)
2. Municipalities buy from Eskom at Mega-Flex
3. Eskom has a customer base and mix that allows for cross subsidies

Compliance Enforcement and Monitoring

- NERSA approved a Distribution Compliance Framework drafted in accordance to the provisions of the ERA;
- Compliance audits and technical audits are continuously undertaken on distribution licensees to check their conformance with set regulatory requirements;
- **Observations**: most municipalities are not complying with their licence conditions such as:
 - SA Grid Code and other standards (e.g. NRS048 & NRS047);
 - Implementing tariffs not approved by NERSA (including IBTs);
 - Poor quality of supply due old electrical infrastructure;
 - Lack of technical staff to undertake operation and maintenance;
 - Lack of systems and processes to monitor performance of electrical networks; and
 - High number of customer complaints and disputes due to non-compliance.

Constraints and Challenges within the EDI

- Alignment of legislation;
- Electricity business not ring-fenced in most municipalities;
- Old electricity infrastructure that require major maintenance and refurbishment;
- Non-existence of formalised maintenance practices;
- Tariff rationalization and harmonization is required;
- Challenges in implementing corrective action plans arising from technical compliance audit findings and recommendations; and
- Maintenance backlog estimated at R27 billion as at 2008.

Dual regulatory reporting system

- Legislative landscape
 - Municipal Systems Act + MFMA (National Treasury);
 - Misaligned financial year-ends; and
 - Electricity Regulation Act (Energy Regulator).
- Oversight roles on municipalities
 - CoGTA; SALGA; National Treasury; DoE; DoL; STATSSA; SABS; NERSA; etc.
- Information Asymmetry between NERSA and Municipalities
 - Distribution Forms not completed on time and where they are submitted, the information is incomplete.
 - Ability to provide good information seems to be limited.

Interventions and Action Taken

- 2008 Electricity Distribution Maintenance Summit (EDMS);
- Dedicated implementation of the Distribution Compliance Framework;
- Guideline Tariff increase instructs municipal licensees to utilise 6% of electricity sales revenue for maintenance; and
- NERSA allows licensees to apply an above Guideline tariff increase is possible if properly motivated.

Recommendations

- Restructuring of legislation to align municipal financial year-ends with that of other government institutions;
- Central portal to gather all electricity data, entailing generation, transmission, distribution and other downstream and upstream industry statistics for use by all interested and affected parties, e.g. hosted by STATSSA or GCIS;
 - This will eliminate the issue of municipalities having to report or submit same information to different authorities.

Recommendations (cont...)

- Clear roles and responsibilities be outlined and assigned to appropriate players within the EDI to ensure effective restructuring project execution; and
- Multiparty Memorandum of Agreement between CoGTA, DoE, National Treasury, NERSA and the Auditor-General to ensure that municipalities are audited on their compliance status on matters related to their electricity business.

Thank You!!!
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