

OUTA Submission on Municipal Tariff Guideline Increase, Benchmarks and Proposed Timelines for Municipal Tariff Approval Process for the 2018/19 Financial Year

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20 March 2018

1. INTRODUCTION

- 1.1 This document serves as the Organization Undoing Tax Abuse's (OUTA's) submission to the National Energy Regulator of South Africa (NERSA) on the published Municipal Tariff Guideline Increase, Benchmarks and Proposed Timelines for Municipal Tariff Approval Process for the 2018/19 Financial Year.
- 1.2 OUTA appreciates NERSA's role in accordance to its mandate provided for in the Electricity Regulation Act, 2006 (Act No. 4 of 2006) stipulating under section 4(ii) that *"the Energy Regulator must regulate electricity prices and tariffs"*.
- 1.3 As a civil society organization, OUTA understands and is aware of the complexities associated to the regulation of the highly fragmented electricity distribution industry (EDI) and the challenges NERSA is faced in dealing with municipalities.

2. CONTEXT

- 2.1 The municipal tariff Guideline increase is developed based on Eskom's approved bulk price increase of electricity to municipalities and the increase on the municipalities' cost structures. Hence, the approval of the municipal guideline increase is subsequent to the determination/approval of Eskom's Retail Tariff Structural Adjustments (ERTSA) by NERSA.
- 2.2 NERSA benchmarks are based on five tariff categories and the corresponding average consumption levels. NERSA acknowledges that these are average consumption levels and that there may also be other tariff classes at various municipalities that will cater for other customer classes or consumption levels. Where such circumstances exist, the municipality's tariff applications will be treated on a case-by-case basis.
- 2.3 Undertaking the cost of supply (COS) studies and enhancing the submitted studies by municipalities is not straight forward as municipalities are faced with different challenges. These challenges include municipalities that contracted external service providers, and by the time when NERSA institute improvements, the contract has expired. Another challenge is the high staff turnover and lack of proper handover policies and institutional memory in most municipalities.

3. SPECIFIC COMMENTS

- 3.1 Stakeholder Comment # 1

The changes in the breakdown of cost weighing applied by NERSA is supported as is in line with the prevailing economic parameters and within acceptable tolerance range.

3.2 Stakeholder Comment # 2

OUTA recommends that NERSA must introduce the following as new additional indicators:

- a) Municipal compliance to on-time payment of their bulk purchase accounts with Eskom
- b) Action plan on the eradication and payment of long-overdue debt to Eskom
- c) Compliance to the COS Framework as a licence condition for municipalities
- d) Establishment of Customer Education Initiative or Forums by municipalities
- e) Partial ring-fencing of electricity department/division and associated revenues within a municipality to ensure sustainability and security of electricity supply.

4. OUR CONCERNS AND OBSERVATIONS

- 4.1 In the Guidelines NERSA disclosed that a Cost of Supply (COS) Study Framework is approved but does not provide specific date.
- 4.2 The Guidelines highlight that municipalities have submitted commitment dates for submitting the COS studies to NERSA. However, there is no disclosure of how many or what percentage of total municipalities have submitted?
- 4.3 No number of municipalities that have undertaken and submitted the COS studies is provided. OUTA regard this as NERSA's disregard to establish a reference point and enable stakeholders to acquire a better understanding of latest developments progress being made in enhancing municipal regulation and fostering a culture of compliance thereof.
- 4.4 NERSA did not include any analysis of the submitted studies nor communicate any findings to enhance municipalities' awareness to the significance of abiding by set performance standards in the electricity distribution industry (EDI)
- 4.5 It is OUTA's believe that if a proper tracking and assessment mechanism of municipal compliance to regulatory prescripts is established and monitored it will provide the EDI and interested as well as affected parties with an in-depth understand of the true extent of the problem. For instance, the guidelines do not assert whether compliance with the COS Framework is a licence condition?
- 4.6 Another observation - is there year-on-year comparative analysis of COS compliance statistics and trends. Are there incentives/penalties for non-compliance to the COS framework?

- 4.7 In the Guidelines, it is stated that “NERSA will continue to support and engage all licensees in order to ensure a smooth transition towards COS study implementation – for how long is NERSA planning to pursue such continuous engagements with licensees?
- 4.8 The Guidelines state that it takes commitment from licensees and support from NERSA to minimise the existing challenges for the COS project to be success. Then the questions arise, what are NERSA timelines to do so and, is this in the NERSA’s Annual Implementation Plan?
- 4.9 It is stated in the Guidelines that NERSA continues to expect all licensees to submit their COS studies in line with their commitment dates. An observation arises to question, whether is this enforceable or is NERSA hoping that things will improve one day, with proper measurable and quantifiable intervention?
- 4.10 Furthermore, it is outlined in the Guidelines that NERSA held workshops in 2017, however, there is no records (entailing dates, place and number of municipalities attending) provided outlining the extent the D-Forms are correctly filled and accurate information captured and by what percentage this improved.
- 4.11 Another consideration, reference is made in the Guidelines that, poor accounting and property records and lack of capacity also serve as a major challenge to municipalities on the concept of COS. However, the question arises, has NERSA engaged other key players (COGTA/SALGA/DoE/NT) on these challenges? For how long has this been going on? Does this affect tariff regulation/setting and does it also affect communities? What’s the real impact of this phenomenon and what are other players saying or doing about it to assist?
- 4.12 No integrated approach between NERSA and other key stakeholders in resolving the issue of lack of an orderly functioning municipal electricity distribution system?
- 4.13 Other stakeholders seem not to understand the importance of collaborations (or are reluctant) to improve efficiencies.
- 4.14 The Guidelines do not provide for any summary outlining how municipalities are performing in terms of how the 6% allowed revenues earmarked for repairs and maintenance is applied or the spending trends thereof. OUTA prefers the current performance and compliance levels, e.g. 66% should be incorporated in the Guidelines to provide the necessary trends and comparative year-on-year analysis.
- 4.15 NERSA Awareness Campaign or Customer Education...how is this happening, are electricity users educated or made aware about the benefits of load shifting and the money savings they could derive and how the time of use tariffs are designed?
- 4.16 The Guidelines are silent about what improved from the 2017/18 issued guidelines. It seems to be a routine rather than improvement in the regulatory framework.

- 4.17 Another key point is, does NERSA conduct trend analysis of municipalities applying for an increase that is above the guideline or benchmarks? What is the trend in the last 3 to 5 years, has it been on the rise or decline. What impact is the above guideline approvals having on the quality of the service? Is NERSA capturing these statistics and establishing the necessary baselines for future reference?
- 4.18 Is NERSA engaging other key stakeholders to try find solutions to municipal financial sustainability, e.g. COGTA, DoE, SALGA & National Treasury to pursue and promote resilient municipal financial health. According to NERSA, for how long should this problem persist, paralysing the EDI's efficiency and effectiveness.
- 4.19 OUTA's observation is that, the capturing of statistics about the progress made towards holistic and effective municipal regulation and management will provide an overall outlook about progress made towards normalisation of the compliance and performance improvement by municipalities in adhering to conducting the COS and documenting the affairs of their electricity business.

5. RECOMMENDATIONS

- 5.1 NERSA must set an indicator about how municipalities are servicing their Eskom debt and their performance about their timeous payments to Eskom for their monthly bulk purchases.
- 5.2 NERSA must conscientious municipalities about their timeous payment to Eskom and the impact of their inept payment behaviour to Eskom's cashflows...
- 5.3 NERSA must set a limit on the minimum of at least 55% of total revenues generated from electricity sales to be ring-fenced and used to cover operational requirements of the electricity business in a municipality and in case, NERSA has to lobby and partner with National Treasury, let it be pursued to ensure sustainability of the business.
- 5.4 Customer Education must be formalised and all key stakeholders participate and constructively contribute, especially on municipal role in the EDI and customer rights.
- 5.6 Compliance to the provisions of the approved COS Study Framework must be enforced and be made a licence condition to promote efficiencies
- 5.7 The Guidelines do not provide forward-looking, but seems to maintain the status quo, and this means inefficiencies and high technical losses must continue unabated. This should be curbed to minimise the negative impact of this on the above benchmark tariff approvals.
- 5.8 OUTA recommends that NERSA should engage the National Planning Commission and make relevant recommendations on appropriate interventional proposals that need to be instituted to address the financial sustainability and an orderly and efficient

electricity distribution industry (EDI) and maintenance as part of building resilient local government.

- 5.9 NERSA should engage COGTA and NT about the inclusion of undertaking a COS study by municipalities as part of the annual Integrated Development Plans (IDP) process.
- 5.10 NERSA must institute a tariff harmonisation programme to rationalise the existing highly fragmented more than 300 tariff structures in order to strengthen its span of control over municipal tariff setting process.
- 5.11 In conclusion, in order to effectively address the above challenges, OUTA strongly recommends that a Multidisciplinary Task Team to address the effective role of local government within the electricity supply industry (ESI) must be established under the leadership of the NPC.

6. CONCLUSION

- 6.1 Section 4 of the Electricity Generation Act (Act 4 of 2006) deals with the powers and duties of NERSA. Sub-section 4(a)(vii) requires NERSA to enforce performance and compliance and to take appropriate steps in the case of non-performance and Sub-section 4(b)(ii) requires NERSA to undertake investigations and inquiries into the activities of licensees. Judging from the unsatisfactory situation in which a large number of municipal licensees are finding themselves being unable to meet their service delivery obligations including effecting necessary payments to Eskom, OUTA strongly recommends that NERSA should effect heavy-handed regulation to fulfil its legislated mandate and promote energy security of supply and improved efficiencies by municipalities.