
NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

In the matter regarding

**Condonation of non-compliance of the MYPD Methodology and MIRT
requirements.**

By

ESKOM HOLDINGS SOC LIMITED ('ESKOM')

THE DECISION

Based on the available information, public comments and the analysis performed on Eskom's condonation application, the National Energy Regulator (NERSA), at the meeting held on 27 July 2017, decided as follows:

No condonation be granted in all areas except for the following:

MYPD METHODOLOGY

1. Valuation of Regulatory Asset Base (RAB) - Condonation granted. NERSA will use the MYPD3 closing balances as the base after taking into account amongst others:
 - prudently incurred expenditure on assets ;
 - assets retired based on excess capacity; and
 - the depreciation of assets since the MYPD3 revaluation.

The condonation is only granted in respect of the 1 year (2018/19) application. Eskom must revalue the asset base in time for its next MYPD application.

MIRTA REQUIREMENTS

2. Information to be provided on Deferred Debits and Credits (balance in the RCA) – Condonation granted since there is currently no decision on the RCA balance.

Eskom Holdings Limited: Condonation of non-compliance of the MYPD Methodology and MIRTA requirements

End.

REASONS FOR THE DECISION

BACKGROUND AND INTRODUCTION

1. The Electricity Regulation Act 2006, (Act No. 4 of 2006), requires the Energy Regulator to set or approve prices, charges and tariffs and the regulation of revenues that enable an efficient licensee to recover the full cost of its licensed activities, including a reasonable margin or return.
2. The Methodology is developed for the regulation of Eskom's required revenues. It forms the basis on which the National Energy Regulator (NERSA) evaluates the price adjustment applications received from Eskom. The Multi Year Price Determination (MYPD) Methodology was first introduced in 2006 for implementation from 01 April 2006 to 31 March 2009. Subsequently the methodology was revised and approved by the Energy Regulator on 27 October 2016 after consultation with the affected parties.
3. In October 2016, the Energy Regulator instructed Eskom to submit a full MYPD4 application on 1 April 2017.
4. On 23 February 2017, Eskom applied for permission from the Energy Regulator to submit a one year application instead of a full MYPD4 citing the following as reasons for the request:
 - a. pending the update of the Integrated Resource Plan for electricity;
 - b. pending the update of the Integrated Energy Plan;
 - c. the 3000MW shortfall is no longer a factor, but there is excess capacity during certain hours;
 - d. the utilization of Eskom's generating capacity might need to be considered, as current indications reflect the need to put into cold reserve, mothball or decommission several power stations, which will have far reaching economic and socio-economic implications;
 - e. the further supply from Independent Power Producers (IPPs) to be discussed with Government; and
 - f. Eskom's responsibility for the procurement for the nuclear build programme

5. On 27 March 2017, NERSA received Eskom's application requesting to deviate from meeting certain requirements of the MYPD Methodology and Minimum Information Requirements for Tariff Application (MIRTA).
6. On 7 July 2017, after public consultations, NERSA held a public hearing on Eskom's request for condonation on the MYPD4 Methodology and MIRTA requirements.

THE APPLICATION

7. On 27 March 2017, NERSA received Eskom's application requesting condonation from meeting certain requirements of the MYPD and MIRTA.

8. A summary of key aspects of this application includes:

- a. **MYPD Methodology** - Eskom indicated that it is not able to undertake the valuation of the Regulatory Asset Base (RAB). In terms of Primary Energy, it is unable to disaggregate coal volumes, coal handling and water costs. Furthermore on Research & Development costs, it should be exempted from the requirement of conducting consultation.
- b. **MIRTA Requirements**– Eskom requested to be exempted from providing segmented cash flow statements. In terms of sales revenues, it will not be able to provide a split between regulated and non-regulated industries as well as providing a projected ten year sales forecast. For items such as RAB and coal purchase & burn, Eskom indicated that it is unable to disaggregate these in line with the MIRTA requirements. In other items such as environmental levies and deferred debits and credits Eskom identified and expressed difficulty with complying with the requirements.

THE APPLICANT

9. Eskom Holdings SOC Limited, Registration number 2002/015527/06, is a Schedule 2 South African state-owned enterprise in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999), wholly owned by the South African Government. Eskom Holdings is regulated under licenses granted by NERSA to generate, transmit and distribute electricity in terms of the Electricity Regulation Act, 2006 (Act No. 4 of 2006).

10. Eskom generates, transmits and distributes electricity to industrial, mining, commercial, agricultural and residential customers and other distributors. Eskom also buys electricity from and sells electricity to the countries of the Southern African Development Community (SADC).
11. Through its subsidiary, Eskom Enterprises (Pty) Limited, Eskom is also active in local unregulated markets and various African countries. These activities include the provision of electricity-related services to countries connected to the South African grid.

THE DECISION MAKING PROCESS

12. On 27 March 2017, NERSA received Eskom's application requesting to deviate from meeting certain requirements of the MYPD Methodology and MIRTA requirements.
13. The Energy Regulator considered the application in line with the MYPD4 rules. The public were previously consulted on these rules.
14. On 3 May 2017, Eskom's application was published over 14 days for stakeholder comments.
15. NERSA conducted an analysis of the Eskom request to deviate from meeting certain requirements of the MYPD Methodology and MIRTA requirements, taking into consideration the applicable law, published government policy and NERSA's rules on the MYPD4.
16. On 7 July 2017, the Energy regulator conducted a one day public hearing at its offices in Pretoria in order to solicit comments from interested and affected stakeholders.
17. The panel questions and responses as well as stakeholders written responses are attached (**Appendix A**).
18. On 24 July 2017, the Electricity Subcommittee considered the Reasons for Decision on Eskom's request for condonation.
19. The Energy Regulator will publish its decision on its website on 27 July 2017.

COMMENTS FROM INTERESTED AND AFFECTED PARTIES

- 20.** On 3 May 2017, the Energy Regulator published Eskom's Condonation of non-compliance of the MYPD Methodology and MIRTA requirements application on the Energy Regulator website for written stakeholder comments.
- 21.** A total of eight (8) stakeholder written representations were received and four (4) oral representations made. These were made up of comments from private individuals, small users, intensive users, and other stakeholders.

SYNOPSIS OF STAKEHOLDER COMMENTS ON MYPD METHODOLOGY & MIRTA

The detailed comments and NERSA analysis are attached in **Appendix B**.

I. MYPD METHODOLOGY

22. Coal volumes

The stakeholders commented that Eskom's inability to meet this requirement will put upward pressure on prices and reduce NERSA's ability to assess the prudence of Eskom's coal purchases, coal contracts and cost drivers in primary energy. Eskom is unable to attribute burn costs and volumes to contract types and suppliers. Any such waiver by NERSA on burn rate information should not be interpreted as a waiver to provide data on coal purchases, volumes, price per ton and contract costs for Eskom's different coal supplies.

23. Coal handling costs

According to the stakeholders NERSA should enforce the Regulatory Reporting Manuals and the MIRTA requirements and scrutinise any significant increases in coal handling costs. The fact that this information cannot be ring-fenced is unacceptable, especially since these costs pertain to the handling of coal and are further included into a tariff. Therefore the handling costs should be explicit and disaggregated for each activity.

24. Water Costs

Similar to the Coal handling comments, the stakeholders believe that the Regulatory Reporting Manuals should be enforced and the MIRTA requirements and any significant increases in water usage costs be thoroughly scrutinised. Some stakeholders are also concerned that a large power utility company such as Eskom is unable to provide details relating to its plant performance. Hence the challenges in measuring the primary activities of its business.

25. Water treatment

Stakeholders highlighted that, Eskom's assertion is that the water treatment costs are relatively small, whereas in context they have doubled over the five year period. NERSA should therefore continue to enforce its information requirements regarding these costs.

26. Regulatory asset base (RAB) valuation

The stakeholders are of the view that condonation must be granted to Eskom, provided that Eskom conducts the asset re-evaluation exercise within 9 months'. However, other stakeholders are of the view that the asset valuation is an important aspect of the application. Therefore, for every MYPD period Eskom should undertake the re-evaluation.

NERSA ANALYSIS ON ESKOM'S REQUEST FOR CONDONATION ON MYPD METHODOLOGY REQUIREMENTS

27. Coal volumes

NERSA's view is that Eskom must use a purchase ratio as a proxy for the coal burn rate. Therefore no condonation is granted.

28. Coal Handling Costs per station

Eskom should provide coal handling cost per station based on the activities assumed to be relevant. Therefore no condonation is granted.

29. Water Costs

Eskom should provide the required information per power station per process. Therefore no condonation is granted.

30. Water Treatment

No condonation is granted.

31. Regulatory asset base

NERSA's assessment is that Eskom should utilise the MYPD3 closing balances adjusted for movements in the period (excluding indexation) until the next MYPD application. This balance will be subject to the prudency assessment before approval. Furthermore, RAB will need to be revalued for the next MYPD. Therefore condonation is granted.

32. Research costs (R&D):

Condonation is not granted

II. MIRTA REQUIREMENTS

33. Segmented Cash Flow Statement for the latest reporting period

NERSA should impose a binding timetable on Eskom for account separation and demand segmented reporting as soon as possible.

34. Sales Revenues and Demand Forecasts

The stakeholders' view is that the lack of a multi-year forecast and a ten-year sales projection can either yield an average price that is below or higher than the required long-term supply of electricity. Therefore leading to hardships for consumers in the coming year.

Additionally the recording of sales volumes between regulated and non-regulated business should be a matter of routine. Eskom essentially has very little unregulated electricity sales and NERSA should provide clarity on this matter to stakeholders.

35. Deferred Debits and Credits

The stakeholder raised a concern that the lack of detail may lead to inflated prices as well as impact on the price application.

NERSA ANALYSIS ON ESKOM'S REQUEST FOR CONDONATION ON MIRTA REQUIREMENTS

36. Segmented Cash Flow Statement for the latest reporting period

Condonation is not granted

37. Sales Revenues and Demand Forecasts

Condonation is not granted

38. Deferred Debits and Credits

Condonation is granted as the RCAs matter is still under the court process. This is recommended until the court pronounce on the RCAs. Therefore, NERSA is not in line with the stakeholder's view.

NERSA'S REASONS FOR PROCESSING ESKOM'S REQUEST THROUGH PUBLIC PARTICIPATION.

39. The Energy Regulator can subject a licensee to a methodology in terms of section 14 of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) as a licence condition and a means to regulate revenue.

40. The methodology has been developed to assist NERSA in considering the revenue application of Eskom and also to guide Eskom in the formulation of its revenue requirement.
41. According to *Borbet and Others v NERSA and others judgement*¹, the methodology should not be used rigidly and without any flexibility. In doing so this would be tantamount to implying that the Energy Regulator no longer has any discretion to exercise. It is one of the fundamental principles of our law that administrators must be able to exercise their unfettered discretion when performing their public function.
42. Accordingly, it is submitted that a deviation from the methodology may be allowed, provided that the enabling legislation and procedural fairness principle are complied with.
43. In terms of clause 4.5 of the methodology, Eskom may submit an application for a relaxation or condonation of any non-compliance with the procedure set out in the Methodology. The Energy Regulator must take the following factors into account in deciding whether or not to grant condonation:
- a) the extent or degree of deviation;
 - b) the explanation for the deviation;
 - c) the impact of the deviation on the achievement of the objectives of the methodology;
 - d) the prejudice to be suffered by Eskom, the members of the public and the economy if condonation is granted or not granted.”

It is important to point out that clause 4.5 of the methodology does not include substantive matters and yet some of the requirements in respect of which Eskom asks for deviation relate to substantive matters with the exception of RAB. Therefore none of the substantive requirements were granted condonation. For condonation on RAB, **see paragraph 1.**

44. Should the Energy Regulator find it in line with the regulation to allow the application made, the Energy Regulator would have to comply with section 4 of the Promotion of Administrative Justice Act and give the members of the public a hearing on the proposed deviations.

¹ NERSA v Borbet SA (Pty) Ltd [2017] ZASCA 87 (1288/2016 & 1309/2016) (6 June 2017)

45. In *Borbet and Others v NERSA and Others* judgement², the Court stated that the Energy Regulator should comply with the principle of procedural fairness before deviating from the methodology whereby the members of the public or affected parties are consulted on a proposed deviation and reasons thereof.
46. In line with the *Borbet* judgement, it can be reasonably concluded that relaxation or condonation of non-compliance with of part/s of the methodology can be considered if the procedural fairness principle and applicable legislation has been observed.
47. In sum, the Energy Regulator has to consider the application for the deviation from the methodology as it is by law enjoined to exercise its discretion on whether or not to approve the Eskom's revenue application for 2018/19 without being restrained by the methodology.
48. It will be imperative to take the application through public consultation process in order to comply with procedural fairness principle. Notices, comments and public hearings can be an efficient and adequate process considering the urgency of the matter.

APPLICABLE LAW

49. The legal basis for the decision of the Energy Regulator to approve electricity prices is derived from the Electricity Regulation Act (Act No. 4 of 2006) ('the Act') and the National Energy Regulator Act, 2004 (Act No.40 of 2004) ('the Energy Regulator Act'). The procedure to be followed in deciding the price is derived from the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000) ('PAJA').

CONFIDENTIALITY

There are no confidentiality issues

CONCLUSION AND RECOMMENDATION

50. On the conspectus of the facts and evidence presented to the Energy Regulator, it is appropriate not to allow Eskom's application for condonation for non-compliance on the following sections of the MYPD Methodology and sections of the MIRTA requirements:

²*NERSA v Borbet SA (Pty) Ltd [2017] ZASCA 87 (1288/2016 & 1309/2016) (6 June 2017)*

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MYPD Methodology

- Research & Development Costs
- Coal volumes
- Coal Handling
- Water Costs
- Water Treatment

MIRTA Requirements

- Sales Revenue and Demand Forecast
- Asset by assets class and Asset
- Capital Expenditure
- Asset disposal and Impairment
- Depreciation
- Coal Purchase and Burnt
- Transport Costs
- Environmental Levy
- Cash flow statements

51. In instances where uncertainties prevail, Eskom will have to apply reasonableness in making assumptions instead of not complying.

52. It is recommended that Eskom be given 30 calendar days from the date the Energy Regulator makes a determination on Eskom's request for condonation which is 27 July 2017 to comply with the MYPD Methodology and the MIRTA requirements where condonation has not been granted.

End.

APPENDIX B

ANALYSIS OF STAKEHOLDER COMMENTS

Table 1: Summary of comments and recommendations on MYPD methodology requirements that cannot be met

MYPD METHODOLOGY REQUIREMENTS	ESKOM'S REASON FOR DEVIATION	STAKEHOLDER'S COMMENT	NERSA ANALYSIS
<p>Coal volumes burnt per station, per contract type and per supplier. MYPD Section (12.2.4a)</p>	<p>It would not be possible to attribute burn costs and volumes to contract types and suppliers. The only option would be to make a theoretical assumption based on the ratio of purchases from contract types. However, it would be difficult to confirm the validity of the assumption.</p>	<p>Busa: The inability of Eskom to meet this requirement will put upward pressure on prices and reduce NERSA's ability to assess the prudence of Eskom's coal purchases, coal contracts and cost drivers in primary energy. Eskom is unable to attribute burn costs and volumes to contract types and suppliers.</p> <p>NERSA should be strongly encouraged to enforce the regulatory requirements. Therefore condonation is not accepted.</p> <p>Graduate School of Business: Eskom has requested that NERSA waives the requirement to attribute power station coal burn costs and volumes to individual contract types and suppliers.</p> <p>While it is understandable that coal delivered to a power station from different sources might ultimately be mixed in stockpiles and it might thus be difficult to attribute power station burn rates to individual coal supply contracts, any such waiver by NERSA on burn rate information SHOULD NOT be interpreted as a waiver to provide data on</p>	<p>NERSA's view is that Eskom must use a purchase ratio as a proxy for the coal burn rate. Therefore no condonation is granted. This is in line with the stakeholders' comments.</p>

<p>The following coal handling costs per station shall be submitted with the MYPD application: stockpiles, recovering from stockpiles, maintaining stockpiles, moved, tons, travelled and kilometre and MYPD payment rate Section(12.2.5)</p>	<p>Coal handling costs refers to costs associated with movement of coal within the power station. The costs associated with coal handling are not distinct per activity as proposed by NERSA cannot be easily ring-fenced or divided into the categories. In addition the activities listed do not constitute the bulk/normal day-to-day coal handling activities. It is thus proposed that coal handling costs be reported per power station.</p>	<p>coal purchases, volumes, price per ton and contract costs for Eskom's different coal supplies.</p>	
		<p>Busa: The inability of Eskom to meet this requirement will put upward pressure on prices due to reduced ability of NERSA to assess the prudence of Eskom's coal handling costs. NERSA should however enforce the Regulatory Reporting Manuals and the MIRT requirements and scrutinise any significant increases in coal handling costs.</p> <p>Greenpeace: Regarding the coal handling costs clause 12.2.5, the most appropriate manner to deal with the details of the costs would be to disaggregate the information is so far as attempting to locate and deal with wastage. The assertion that the information required by NERSA does not constitute bulk/day-to-day coal handling activities and as a result such information cannot be ring-fenced is unacceptable, the mere fact that these costs pertain to the handling of coal and are further included into a tariff, said handling costs should be explicit and disaggregated for each activity.</p> <p>The fact that Eskom wishes to aggregate power station coal handling costs is commendable for comparability purposes concerning costs and stockpile volumes, it is with foresight that aggregated coal handling</p>	<p>Eskom should provide coal handling cost per station based on the activities assumed to be relevant. Therefore no condonation is granted. This is in line with the stakeholders' comments.</p>

<p>Water Costs Determine the costs per station for the water to be procured and highlight the amounts of water that will be designated for each process per plant MYPD Section(12.8.1.1)</p>	<p>It would not be possible to determine water usage per process. Thus water usage per power station is proposed.</p>	<p>costs for each power station will provide insight into operational efficiency of each power station in the Eskom fleet.</p> <p>However, concerning individual stations it is imperative that the costs are disaggregated to include (but not limited to) stockpile build-up and maintenance, removal and transportation of stockpiles, kilometres travelled and the associated payment rate. It stands to reason that the above mentioned approach should be employed.</p> <p>BUSA: The inability of Eskom to meet this requirement will put upward pressure on prices due to reduced ability of NERSA to assess the prudence of Eskom's water costs.</p> <p>Unless NERSA has prescribed a higher level of information disaggregation since the gazetting of MIRTA, the requirements described exceed the MIRTA requirements which are per station, not per process.</p> <p>It appears that the MIRTA actually requires for "Other Primary Energy Costs at Coal Fired Power Stations" the following: "Aggregate water purchase cost and volume" and "Water treatment cost." NERSA should enforce the Regulatory Reporting Manuals and the MIRTA requirements and scrutinise any significant increases water usage costs.</p>	
			<p>NERSA is in agreement with the stakeholder views. Eskom should provide the required information per power station per process. Therefore no condonation is granted.</p>

<p>Water treatment</p> <p>Eskom must determine the costs per station, particularly the cost of chemicals, electricity usage and labour. Eskom must demonstrate (in a detailed calculation Section(12.9.1 and 12.9.2)</p>	<p>The water treatment costs are relatively small. Details on electricity usage and labour are not specifically determined. The cost of the water treatment chemicals and water quality is the main drivers of water treatment costs. Higher or lower rainfall, transfers between water schemes and systems, water quality, the actual mix of power stations in the production plan of a particular year and of course the quantity and cost of chemicals etc. are all factors that influence the cost/litre of water treatment.</p>	<p>CAIA: Eskom suggests water usage per power station. CAIA is concerned that a large power utility company such as Eskom is unable to provide details relating to their plant performance. It seems like Eskom cannot measure the primary activities of their business</p> <p>CAIA would like to know which aspects of Eskom's request relate to new requirements as per the new MYPD methodology, where it could be reasonable to expect that such information may not be producible in the relatively short time-frame since the approval of the methodology</p> <p>BUSA: The inability of Eskom to meet this requirement will put upward pressure on prices due to reduced ability of NERSA to assess the prudence of Eskom's water treatment costs. NERSA requires costs of water treatment per station and at the very least, the costs of water treatment chemicals and the water input costs must be provided to NERSA.</p> <p>Also, Eskom's assertion that the water treatment costs are relatively small must be placed on the context of a near doubling of the costs approved. for 2012/13 and applied for 5 years later, from R 246 mil approved for 2012/13 to the 2017/18 cost applied for in the MYPD3 of R 477 mil.</p>	
			<p>NERSA is in agreement with the stakeholders view, therefore no condonation is granted.</p>

<p>Regulatory asset base (RAB) valuation Section(9.2)</p>	<p>Eskom will not be in a position to undertake a RAB valuation for this application. The revised methodology was only finalised during October 2016. This does not afford Eskom sufficient time to undertake the valuation process. Eskom will use the last valuation (MYPD3) as the basis for the new application. This will provide a conservative valuation. The valuation process will be undertaken in time for the next revenue application.</p>	<p>NERSA should therefore continue to enforce its information requirements regarding these costs.</p>	
<p>BUSA: BUSA is of the view that the use of MEAV for an electricity asset valuation is highly unusual, as it is typically used in industries facing a downward Long Marginal Cost Curve, so as to incentivise investment in more efficient technology. Furthermore, the MEAV was accepted for the purpose of MYPD2 only, with the condition that the Energy Regulator will verify its credibility during other MYPD cycles. Lastly, NERSA must provide clarity regarding the frequency of asset valuation intervals. BUSA believes that Condonation must be granted to Eskom provided that Eskom conducts the asset re-evaluation exercise within 9 months' time in order to provide the required details when the 1 year application expires.</p> <p>Chemical and Allied Industries Association(CAIA): CAIA is of the view that Eskom should be able to make assumptions to determine the starting value of the RAB.</p> <p>Green Peace: Green Piece stated that asset valuation is an important aspect of the application, as a result, Eskom should provide this information as it (Eskom) knew from 2016</p>	<p>The MEAV has been put into place with the view that whenever an asset is replaced, it must use the latest available technology. This inherently demonstrates that MEAV is a form of a replacement valuation method which is in line with the EPP and the MYPD4 methodology. Lastly, the MYPD4 methodology inherently requires that Eskom should undertake an asset valuation with every MYPD application.</p> <p>The views by CAIA are contradictory with the MYPD4 methodology which prescribes the use of MEAV, not the use of assumptions. NERSA concurs with the views expressed by Green Piece, however, in the absence of this valuation and for the purposes of a 1 year application as opposed</p>		

<p>Research costs (R&D): There must be proper governance procedures in place with industry input in terms of project selection and review. Section(11.4.3)</p>		<p>that it should re-evaluate for every MYPD period.</p>	<p>to a full MYPD application, NERSA is of the view that it will be fair to use the MYPD3 closing balances as a base as it has approved the values. In line with the above analysis, condonation can be granted until the next MYPD application. For the purposes of this application, Eskom should utilise the MYPD3 closing balances adjusted for movements in the period (excluding indexation).</p>
<p>Research costs (R&D): There must be proper governance procedures in place with industry input in terms of project selection and review. Section(11.4.3)</p>	<p>Due to the methodology only being published during October 2016, Eskom was not in a position to include input from the industry in finalising the MYPD application. Any review and subsequent applications will include industry inputs.</p>	<p>BUSA: The possible impact on price will be higher due to lack of review of project selection. This will be accepted if capped at 2017/18 levels plus inflation. The amount for research costs approved in the MYPD3 for 2017/18 is R 257M, which is relatively small in the overall allowable revenue. It is recommended however that NERSA imposes a cap on the amount based on previous MYPD approaches and that it enforces adherence to procurement rules for such spending to ensure it is prudently managed. Given the role of the Department of Energy in defining the IRP, it may not be necessary for Eskom to invest in research. Note also questions raised regarding the funding of certain research institutes</p>	<p>Condonation not granted and that Eskom must embark on consultation process in parallel to NERSA reviewing its application and if new issues come these must be duly communicated.</p>

Table 2: Summary of comments and recommendations on MIRTA Requirements that cannot be met.
MIRTA REQUIREMENTS **ESKOM'S REASONS** **STAKEHOLDER'S COMMENT** **NERSA ANALYSIS**
FOR DEVIATION

<p>Segmented Cash Flow Statement for the latest period Section(2.1.3.1)</p>	<p>NERSA has exempted Eskom from providing a Segmented Cash Flow, in its reporting requirements, as this is not feasible at a licensee level. The Eskom Group Cash Flow Statement will be provided</p>	<p>BUSA: The inability of Eskom to meet this requirements will lead to upward pressure on prices due to lack of transparency and reduced ability of NERSA to scrutinise the cash flow statements.</p> <p>Not acceptable. NERSA should impose a binding timetable on Eskom for account separation and demand segmented reporting as soon as possible.</p>	<p>Condonation not granted</p>
<p>Sales Revenues and Demand Forecasts</p> <ul style="list-style-type: none"> • Sales between regulated and non-regulated business; and • Sales volume in MWh for each of the above categories i.e. Commercial per voltage, Industrial per voltage, Sports grounds, churches, water pumps etc <p>Projected sales to support the ten year forward-looking price path as per EPP Section (3.3)</p>	<p>Eskom cannot provide sales volumes between regulated and non-regulated business and cannot provide sales volumes for some of the categories prescribed in the templates – e.g. Commercial per voltage, Industrial per voltage, Sports grounds, churches, water pumps etc. Due to uncertainty, projected sales to support the ten year price path will be a challenge.</p>	<p>BUSA: The lack of a multi-year forecast and a ten-year sales projection can have two, equally undesirable, outcomes. Either the short-term view yields an average price that is below that required for the longer-term supply of electricity, resulting in a price shock in the next MYPD period; or, the average price is higher than is required for the longer-term supply situation, leading to unnecessary hardship for consumers in the coming year.</p> <p>The granting of condonation is not acceptable. NERSA should impose a binding timetable on Eskom for account separation and demand segmented reporting as soon as possible.</p> <p>The recording of sales volumes between regulated and non-regulated business</p>	<p>NERSA agrees with the comments as Eskom should provide and keep separate accounts for its regulated and non-regulated businesses. NERSA will endeavour to ensure that this information is provided.</p> <p>Therefore, No condonation is granted as Eskom must submit its application in line with the MIRTA.</p>

		<p>should be a matter of routine. Eskom essentially has very little unregulated electricity sales and NERSA should provide clarity on this matter to stakeholders. It has been argued that the price of exported MWh is unregulated, which is untenable in the context of NERSA's mandate to regulate electricity prices, as for instance subsidising exports by domestic sales should not be acceptable to NERSA.</p>	
<p>Asset by asset class Section (3.1.1.1)</p>	<p>Eskom is not able to provide data per the asset classes as prescribed in the MIRTA templates. Asset classes will be provided as per the classes contained in Eskom information (e.g. Gx per technology etc.)</p>	<p>BUSA: The inability to meet this requirement will lead to upward pressure due to reduced ability of NERSA to assess the details and accuracy of Eskom's assets and their valuation. Not acceptable. NERSA should enforce the Regulatory Reporting Manuals developed as early as 2008, the MIRTA of 2010 and the relevant</p>	<p>No condonation granted, as Eskom has been complying with this requirement in the past.</p>
<p>Asset - Historic - Indexed Historic - Replacement cost Section (3.1.1.1)</p>	<p>Historical assets will be based on Eskom historic asset base as reflected in AFS with slight deviation due to Avon and Dedisa being derecognised. The replacement asset base will be addressed under the MYPD methodology.</p>	<p>BUSA: The request is not clear. Not acceptable. Firstly, NERSA should ask Eskom to rewrite this part into an intelligible request as the manner in which it is put in the letter is open to interpretation and therefore likely to lead to misunderstandings. Secondly, if BUSA's understanding of Eskom's request is correct (which is far from certain) the idea of asset valuation on a historical cost basis after the MYPD3 was based on an MEAV valuation is nonsensical. The subsequent reduction in the RAB would yield a lower average electricity price in 2018/19, which would inevitably result in a</p>	<p>No condonation granted, as Eskom has been complying with this requirement in the past.</p>

		<p>disproportionally high increase the years thereafter.</p> <p>NERSA should enforce the Regulatory Reporting Manuals developed as early as 2008, the MIRTA of 2010 and the relevant conditions of licence regarding asset registries and valuations.</p>	
<p>Capital Expenditure Overall summary of capital expenditure per asset class over the tariff period showing the actual capital spend; assets (work) under construction; assets transferred to commercial operation; abandoned; transferred to mothballed; At a minimum, a ten year forecast of the capital expenditure programme per asset class and per major project. Section(3.1.1.2)</p>	<p>Eskom does not reflect its capex values as per the asset classes as prescribed in the MIRTA templates and will not be in a position to provide the information. Information is provided per business category (e.g. strengthening, refurbishment in Distribution) and per project (e.g. Medupi, Kusile etc.) and per technology (e.g. Nuclear, hydro etc.) Will not be in a position to provide ten year forecast per asset class – see reasons provided above; due to uncertainties, will also not be able to forecast.</p>	<p>BUSA: Inability to meet this requirement with lead to upward pressure due to reduced ability of NERSA to assess the details and accuracy of Eskom's capital expenditure.</p> <p>Not acceptable. Eskom cannot choose not to record its assets in the format prescribed. NERSA has prescribed these formats so as to provide it with the information it needs in order to take informed and accurate decisions. NERSA should be strongly encouraged to enforce the Regulatory Reporting Manuals developed as early as 2008, the MIRTA of 2010 and the relevant conditions of licence regarding asset registries.</p>	<p>No condonation is granted as Eskom was able to submit all information per asset class in the MYPD3. A detailed explanation and justification for the drivers for capital is required.</p>
<p>Asset disposals and impairments List of assets disposed and/or decommissioned together with the reasons for such disposal and/or decommissioning. Section(3.1.1.3)</p>	<p>Eskom will not be in a position to provide details on each asset disposed etc.; assume it will only be for big ticket items</p>	<p>BUSA: The inability to meet this requirement will lead to upward pressure due to reduced ability of NERSA to assess the details and accuracy of Eskom's regulated asset base.</p>	<p>No condonation granted as Eskom has an asset register for all of its assets disposed and/ or decommissioned and in order to allow the Energy Regulator to apply reasonable</p>

<p>Depreciation</p> <p>The applicant must provide the following information, applicable to both historic and replacement cost basis:</p> <ul style="list-style-type: none"> • Current depreciation amount included in the application; <p>Accumulated depreciation to date for the RAB by each of the asset classes and by electricity business, per division, where applicable; Section (3.1.1.4)</p> <p>Coal Purchase and Burnt</p> <p>Aggregate coal purchases; volumes; price per ton; and costs per contract type;</p>		<p>Not acceptable. Eskom cannot refuse to provide details on asset disposal. At the very least it should propose a level of materiality if it is applying for a deviation.</p> <p>NERSA should enforce the Regulatory Reporting Manuals developed as early as 2008, the MIRTA of 2010 and the relevant conditions of licence regarding asset disposal record keeping.</p> <p>BUSA:</p> <p>It is not clear how NERSA can determine an accurate allowable revenue amount without precise depreciation data. It is likely to lead to inaccurate pricing at best and inflated prices at worst</p> <p>Not acceptable. NERSA should enforce the Regulatory Reporting Manuals of 2008, the MIRTA of 2010 and the relevant conditions of licence regarding depreciation values.</p> <p>BUSA:</p> <p>The inability meet this requirement will lead to higher prices due to lack of transparency and inability of the Regulator to probe coal costs due to lack of information. BUSA agrees with NERSA that coal costs are a critical component of the electricity price and require accurate reporting as well as careful scrutiny.</p> <p>BUSA believes that it is not reasonable for Eskom to claim it cannot attribute burn costs and volumes to contract types and suppliers in 2017, given that this requirement was first</p>	<p>judgement on Eskom's revenue application.</p>
<p>Eskom is not able to provide data per the asset classes as prescribed in the MIRTA templates. Asset classes will be provided as per the classes contained in Eskom information (e.g. Gx per technology etc.)</p>	<p>Coal burn is not available per contract type. Coal cannot physically be separated into categories when it is burnt. The burn cost is calculated on a weighted average cost.</p> <p>Coal transportation costs (rail and road) for ST/MT purchases. Where coal is transported by conveyor (Cost</p>	<p>NERSA is of the view that Eskom should use the purchases ratio as the proxy for coal burn rate, this is in line with stakeholders' views. No condonation is granted.</p>	

	<p>Plus and Fixed Price), the conveyor cost is embedded in the coal cost, so it is not possible to separate it. Coal handling costs refers to costs associated with movement of coal within the power station. The costs associated with coal handling are not distinct per activity as proposed by NERSA cannot be easily ring-fenced or divided into the categories. In addition the activities listed do not constitute the bulk/normal day-to-day coal handling activities. It is thus proposed that coal handling costs be reported per power station.</p>	<p>set in the Regulatory Reporting Manuals, Gazetted as early as 2008, and explicitly stated in the MIRTA for electricity. The MIRTA states the following information is required from electricity (generation) licensees:</p> <p>CAIA:</p> <p>It is imperative that Eskom meets the minimum requirements set out in the MIRTA and MYPD documents. CAIA is also of the view that Eskom is not being fully accountable, and this is not in line with NERSA's regulatory principles. CAIA further views Eskom's lack of accountability as not being in the public interest. Eskom is a public entity; therefore, it should be transparent and accountable without having to be compelled through a legal regulatory framework.</p>	
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<p>.Transport costs:</p> <ul style="list-style-type: none"> To be reported as a separate line item for each coal contract type for each power station; Provide a detailed explanation for any large and unexpected increases and strategies to control such increases; and The strategies must go beyond the tariff period and the costs identified separately Coal handling cost <p>Section (3.4.3.2.1)</p>		<p>Not acceptable.</p> <p>The requirement is one of simple bookkeeping and checking contractual amounts, which any prudent company would do as a matter of course.</p> <p>Conveyor costs may be included in the coal price. The inclusion of such costs must however have some basis and it is proposed that the contractual agreements pertaining to the inclusion of the conveyor cost in a bundled coal price be provided to and scrutinised by the regulator. On that basis, it is acceptable.</p> <p>NERSA should consider allowing the information to be submitted per power station.</p>	<p>NERSA agrees with the stakeholder. No condonation is granted therefore Eskom must provide coal handling cost per station per activity as required.</p>
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<p>Environmental Levy</p> <p>Costs and revenues must be separated from the regulated costs and revenues, i.e. the applicant must ring-fence and itemise separately the costs and the revenues, depending on the treatment of the incidence of the levy on the applicant, associated with the levy Section(4)</p>	<p>Costs are fully ring fenced per Power Station per month. Revenue is not ring fenced. Cost for the levy is deemed to be similar in nature than any other Primary Energy or Operating cost and is therefore embedded in the total revenue recovery of Generation Division. Generation cannot report on ring fenced levy revenue at Generation level.</p>	<p>BUSA:</p> <p>The inability to meet this requirement will lead to higher prices due to lack of transparency and inability of the Regulator to probe levy costs and revenues.</p> <p>It is not acceptable that Eskom cannot meet this requirement. The requirement is one of simple bookkeeping similar to VAT payments, which any prudent company would do as a matter of course.</p> <p>As far as BUSA is aware, the power stations are individually licensed with SARS for the environmental levy. Each licensee is required to demonstrate the revenue on which the levy is calculated.</p>	<p>NERSA agrees with the stakeholder comment. No condonation is granted as NERSA requires that the ring fenced amounts per power station be supplied as requested and that the total revenue for levies be provided from tariff collection.</p>
<p>Deferred Debits and Credits</p> <p>The applicant must provide the following information:</p> <ul style="list-style-type: none"> ▪ Detailing the origin of these balances; <p>Amounts and period over which they will be released/charged to the Income Statement</p> <p>Section (3.1.1.6)</p>	<p>Currently the decision on the RCA is awaiting legal outcomes, so Eskom cannot predict the outcomes of the RCA balances as well as the liquidation thereof.</p>	<p>BUSA:</p> <p>The lack of detail on deferred debits and credits may not have a substantial impact on the price application, but is nevertheless likely to lead to inaccurate pricing at best and inflated prices at worst.</p> <p>Not acceptable. The lack of detail is likely to impact on the price application. NERSA should enforce the Regulatory Reporting Manuals of 2008, the MIRTA of 2010 and the relevant conditions of licence regarding depreciation values.</p>	<p>Condonation is granted as the RCAs matter is still under the court process. This is recommended until the court pronounce on the RCAs. Therefore NERSA is not in line with the stakeholder's view.</p>

GENERAL COMMENTS

1. Stakeholders are of the view that the integrity of the MYPD might be eroded should NERSA allow condonation on the MYPD4 Methodology.
2. The MYPD Methodology was developed and approved following a consultative process with all stakeholders, this should not prohibit the Regulator from applying its mind given externalities in granting condonation
3. Stakeholders are of the view that the MYPD3 should be extended for a further year to accommodate ESKOM.
4. The MYPD3 posed challenges to price path certainty,
5. Stakeholders argue that Eskom is required to fully disclose all its costs and contracts. There is lack of transparency and flaunting of their own procurement processes.
6. NERSA agrees with the stakeholders and the MYPD methodology was developed to enhance amongst other things, transparency.