

Transitional Mechanisms



Transitional Mechanisms

Lapsing of Supply Rights and SDAs

- As presently drafted the automatic lapsing of certain supply rights could seriously disrupt the provision of services (Section 28(s))
- Eskom's licence lapses on commencement of the Act
- There is no obligation for local government to enter into an SDA
- If one is not entered into in the time to be prescribed, Eskom cannot continue to supply
- Local government may not be in a position to do so as well
- Critical issues need to be addressed prior to finalising an SDA
 - Compensation for assets
 - Tariff issues
- **Eskom recommendation:**
 - An adjudication mechanism should be provided (NERSA)
 - The initial SDA should be prescribed
 - The automatic lapsing of the right to supply should be removed

Transitional Mechanisms

Municipal Systems Act (MSA)

- The Bill should allow an initial once off exemption for local government with regard to compliance with:
 - Section 78 of the MSA [public process]
 - This is necessary to expedite implementation
 - There would be no prejudice as the provisions of the bill will be implemented
 - The public process cannot alter the provisions of the Bill (once enacted)

Tariffs

- The bill requires tariffs to be set within:
 - A national framework of norms and standards prescribed by the Minister
 - The requirements of the Municipal Systems Act
- In line with the objectives of EDI restructuring and the Electricity Regulation Act, the Bill needs to support:
 - "Low cost electricity to all customers, with equitable tariffs for each segment" (EDI Blueprint)
 - A framework for cross-subsidisation between customer categories and geographies
 - Sufficient levels of investment to ensure technical and financial sustainability
- Right of individual municipalities to set tariffs could lead to:
 - Increased disparities in current industry tariffs
 - Insufficient investment in infrastructure by service providers
- **Eskom recommendation:**
 - **Appropriate parameters for reticulation tariffs in line with the financial and technical sustainability of efficient service providers should be set at a national level**
 - **Municipal surcharges should be transparent**
 - **The norms and standards (rules) for tariffs be prescribed when the Bill becomes law**

Servitudes

- The absence of a provision addressing the transfer of servitudes will impede the restructuring and transfer contemplated in the Bill
- **Eskom recommendation:**
 - A provision is required to allow the transfer of servitudes

Consolidation to assist Restructuring

- The bill does not sufficiently support the approved consolidation process for EDI restructuring and does not promote consolidation of tariffs and subsequent economies of scale and skill
- **Eskom Recommendation**
 - The Bill should provide relief from the requirements of the MSA to support consolidation

Summary of Recommendations

- The definition of reticulation should be amended
- The regulatory powers of the Regulator should be reviewed (in relation to local government and the Minister)
- The enforcement powers of the Regulator and enforcement process should be reviewed.
- Appropriate transitional mechanisms should be included with regard to:
 - Lapsing of supply rights
 - Standard SDAs
 - Compliance with the MSA
- The tariff should be appropriately regulated to ensure consistency
- The ability to transfer servitudes should be legislated

Conclusion

- **The Bill in its present form:**
 - Does not establish an optimal regulatory framework
 - Creates an unworkable model insofar as demarcating the roles of the various stakeholders are concerned
 - Has the potential to seriously disrupt the provisions of services by not including adequate transitional mechanisms
 - Does not facilitate more effective restructuring of the industry