

Limpopo Legislature

OFFICE OF THE SECRETARY



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NEGOTIATING MANDATE OF THE PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM ON ELECTRICITY REGULATION AMENDMENT BILL, 2006 [B20B-2006]

1. INTRODUCTION

The Electricity Regulation Amendment Bill, 2006 [B20B-2006] was referred to the Legislature of the Limpopo Province by the NCOP on 06 February 2007. The Legislature in turn referred the Bill to the Portfolio Committee on Economic Development, Environment and Tourism for consideration. The Committee having considered the Bill reports as follows:

2. PURPOSE OF THE BILL

The Bill seeks to amend the Electricity Regulation Act, 2006, so as to insert certain definitions; to make certain textual corrections; to insert a new Chapter dealing with electricity reticulation by municipalities; and to extend the Minister's powers to make regulations; and to provide matters connected therewith.

3. CONSIDERATION OF THE BILL

The Committee met on 23 February 2007 to consider the Bill. NCOP Permanent Delegate, Hon. J. Sibiya with Mr Martin Mascmola from National Department of Mineral and Energy Affairs, briefed the Committee on the principle of the Bill.

4. FINDINGS

The Committee found that the Bill:

- on Amendment of Section 1 of Act 4 of 2006 the reticulation was not clearly defined to be distinguished from distribution.
- on Insertion of Chapter four in Act 4 of 2006

- Section 28 (1) is incomplete.
- Provisions in Section 28 (2) (g) were not included under the Regulation Section to prescribe the reporting format.
- Section 32 (1) and 13 (4) (e) overlap, as it appears that the Regulator has the same powers as the Minister to regulate on the Key Performance indicators.

5. RECOMMENDATIONS

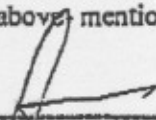
The Committee, having supported the Bill, recommends that:

- **on Amendment of Section 1 of Act 4 of 2006**
 - Reticulation must be clearly defined to be distinguished from distribution if they mean two different things.

- **on Insertion of Chapter four in Act 4 of 2006**
 - Section 28 (1) is incomplete.
 - In Section 28 (2) (b) the word "integrated development plans" should be defined under definition section.
 - Provisions in Section 28 (2) (g) should be included under the Regulation Section to prescribe the reporting format.
 - Section 30(3) should amend the Regulation Section in the Principal Act to avoid duplication of Sections instead of it being a stand alone Section.
 - On Section 32 (1) and 13 (4) (e), it should be clearly stated who has powers to regulate on the Key Performance indicators between the Regulator and the Minister.

6. NEGOTIATING MANDATE

The Committee, having considered and supported the Bill, recommends that our NCOP Permanent Delegates negotiate in support of the Bill with the above mentioned recommendations.



**HON. T.G.G MASHAMBA
COMMITTEE CHAIRPERSON:
ECONOMIC DEVELOPMENT,
ENVIRONMENT AND TOURISM**



IPHALAMENDE LAKWAZULU-NATALI



KWAZULU-NATAL PROVINSIALE PARLEMENT

KWAZULU-NATAL PROVINCIAL PARLIAMENT

**TO: THE CHAIRPERSON,
NATIONAL COUNCIL OF PROVINCES**

NEGOTIATING MANDATE

PROVINCE : KWAZULU-NATAL

**BILL : ELECTRICITY REGULATION AMENDMENT
BILL [B20B - 2006]**

PROVINCIAL PROCESS :

Provincial Portfolio Committee/s : Local Government & Traditional Affairs
Portfolio Committee

Portfolio Committee meeting date/s : Tuesday, the 27th of FEBRUARY 2007

Provincial NCOP meeting date/s : Wednesday, the 28th of FEBRUARY 2007

Consultation : Parliamentary Legal Advisors, Special &
Permanent Delegates

VOTE OF THE KWAZULU-NATAL PROVINCIAL LEGISLATURE:

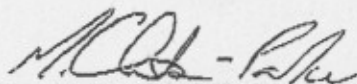
The Provincial Standing Committee on National Council of Provinces Matters met on, Wednesday, the 28th of February 2007, & agreed to mandate the KwaZulu-Natal delegation to the National Council of Provinces to *support* the Electricity Regulation Amendment Bill [B20B-2006].

The delegation is further mandated to consider any additional amendments, providing that-

- 1) the amendment/s does/do not alter the essential elements of the Bill; and

- 2) consensus is reached on the proposed amendment/s by the KwaZulu-Natal delegation.

PROVINCIAL ENDORSMENT



Ms LF Shabalala
CHAIRPERSON :
KWAZULU-NATAL STANDING COMMITTEE ON
NATIONAL COUNCIL OF PROVINCES MATTERS

Thursday, the 1st March 2007

DATE

[-----]



Committee Services

FREE STATE LEGISLATURE

*Our references:
Our usungqungu:
Tobeko ya rona.*

TOURISM, ENVIRONMENTAL AND ECONOMIC AFFAIRS COMMITTEE

Report on the provincial inputs regarding Electricity Regulation Amendment Bill [B20-2006]

1. Terms of Reference

The Electricity Regulation Amendment Bill [B20B - 2006] has been referred to the Tourism, Environmental and Economic Affairs Committee by the Speaker on 15 January 2007.

2. Briefing

(1) On the 23 February 2007, Ms. S. Mabe NCOP Permanent delegate of the Free State briefed the Committee on the content of the Bill.

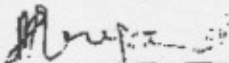
(2) Advocate Malakoane, Legal Advisor of the Free State Legislature briefed the Committee on the legal substance and effects of the Bill.

(3) The Committee held the Public Hearings on 01 and 02 March 2007 at Kopanong Municipality at Xhariep District, and Metsimaholo Municipality at Fezile Dabi District.

3. Resolutions

The Committee resolved that:

1. Authority be conferred to the Free State delegation to vote in favour of the Bill:



MS. T. MOKOENANYANA: CHAIRPERSON
TOURISM, ENVIRONMENTAL AND ECONOMIC AFFAIRS COMMITTEE
 Free State Legislature
 05 March 2007

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GAUTENG LEGISLATURE

LOCAL GOVERNMENT PORTFOLIO COMMITTEE

NEGOTIATING MANDATE:

ELECTRICITY REGULATION AMENDMENT BILL [B20B-2006]

1. INTRODUCTION

The Chairperson of the Local Government Portfolio Committee, Ms RS Lotwaba, tables the Committee's Negotiating Mandate as adopted by the Portfolio Committee on Monday, 5th March 2007, on the *Electricity Regulation Amendment Bill* [B20B-2006].

2. PROCESS FOLLOWED

On the 14th February 2007, the Speaker formally referred the Electricity Regulation Amendment Bill [Versions A & B] [B20B-2006] – Section 76, to the Local Government Portfolio Committee, in terms of Rule 232(1)(a) read with 235(4) (6) and (7).

The Memorandum of the Amendment Bill states that at National Assembly stakeholders were consulted through various meetings owing to their key role in the electricity industry. The Bill was further published in the *Government Gazette* for public comment and various stakeholders provided additional inputs.

In considering the detail and principle of the Bill, the Committee in its meeting of the 20th February 2007 received a provincial briefing from the Permanent Delegate to the National Council of Provinces (NCOP), Honourable Ms S Chen. Member Chen alluded that the bill was opposed by SALGA (National), including Cape Town Council and the Nelson Mandela Municipal Council (Port Elizabeth) on the grounds that the bill was unconstitutional and should be withdrawn and totally revised. Opposition to the bill was also expressed by ESKOM, and the Energy Intensive Users Group which represented large industrial consumers, the Chamber of Mines and COSATU on the basis that the bill would prevent cross-subsidisation of residential consumers by large industrial and commercial consumers as well as the fact that the final end-state of the electricity sector had not yet been finalised. In conclusion, Member Chen explained that through amendments at National Assembly the contentious issues from the A Version of the bill have been dealt with.

The Department of Minerals and Energy representative, Ms N Magubane, presented on the legislative processes the bill has undergone to date and gave a brief overview of stakeholders' inputs, at the National Assembly. Ms Magubane further supported the NCOP brief presented by the Honourable Member Chan on the Bill and also confirmed that contentious issues from the Bill have been adequately dealt with.

The Gauteng Department of Local Government and SALGA Gauteng were invited to make presentations on the socio-economic, financial, legal and political impact of the Bill and the effect it may have in relation to their respective mandates to Municipalities in Gauteng.

At the meeting of the 20th February

- Both SALGA Gauteng and the Department of Local Government were unable to register their views with the Portfolio Committee, in terms of Rule 232(1)(b), 235 (4)(a) and 151(3)(a); and
- They were further given an opportunity by the Portfolio Committee to present their respective views at the meeting of the 2nd March 2007.

In compliance with its duty in terms of Section 118 of the Constitution, the Committee resolved that written submission be invited through radio and newspaper advertisements, in order for the committee to decide on the necessity of calling public hearings. Advertisements on radio and print media were made from Saturday, 24th February to the Thursday, 1st March 2007.

Another meeting of the Committee was held on the 2nd March 2007, to further consider the detail and principle of the bill informed by the views of organised local government, the Department of Local Government and other interested stakeholders. Written submissions were received from ESKOM and City of Tshwane. SALGA Gauteng by way of e-mail correspondence indicated that the Provincial Office of SALGA will not have a position that is not informed by the position of SALGA National. They, however, failed to attend all arranged committee meetings and express any view including that which they claim to be aligning themselves to.

In light of the above responses, the Committee in considering the said responses on the Bill unanimously agreed that it will be impossible to proceed formulating a Negotiating Mandate (required by the NCOP on 6th March 2007) not informed by the social, political and financial implications the bill might have on both the Department and Municipalities once enacted, hence the resolution of the Committee to the effect that a special meeting be convened on Monday, 5th March 2007 to allow the Department of Local Government a further opportunity to present the views of the Executive Council on the bill.

At this meeting of the 5th March 2007 the Provincial Department of Local Government and SALGA Gauteng failed to make substantive presentations on the bill, however, the Provincial Department

undertook to submit the views of the Executive Council before the consideration of the final voting mandate.

3. DETAIL OF THE BILL AND PROPOSED AMENDMENTS

The Portfolio Committee considered the detail of the *Electricity Regulation Amendment Bill* [Versions A & B] [B20B-2006] – Section 76 as follows and propose the following amendment.

Page 4, omit the whole of line 16 and 17 of Section 28.

This amendment was proposed by the National Assembly but was overlooked by the drafters of the legislation and still remains in the Version B of the bill.

4. LEGAL FRAMEWORK

In considering the bill, the portfolio committee considered:

- The Electricity Regulation Act, 2006 (Act No. 4 of 2006);
- The Local Government: Municipal Systems Act, 2000 (Act No. 32 of 200)
- The Constitution of the RSA, 1996;
- The A Version of the Electricity Regulation Amendment Bill;

5. OBJECTIVES AND ANALYSIS OF THE ELECTRICITY REGULATION AMENDMENT BILL

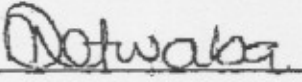
The amendment bill seeks to amend the Electricity Regulation Act [Act 4 2006] as follows:

To insert certain definitions; to make certain textual corrections; to insert a new Chapter dealing with electricity reticulation by municipalities; and to extend the Minister's powers to make regulations; and to provide for matters connected therewith.

6. COMMITTEE POSITION AND NEGOTIATING MANDATE

The Portfolio Committee, upon consideration of the brief received from the NCOP permanent delegate, the presentation of the Department of Minerals and Energy and the submissions received from Tshwane City Council and Eskom, concluded as follows –

1. the committee provisionally supports the bill; and
2. solicits the Select Committee's indulgence to allow the Committee to propose further amendments should the views of both SALGA-Gauteng and the Provincial Executive substantively bear socio-economic, financial and political implications for the Province that may require consideration prior to the passage of the bill by the NCOP.


MS REFILWE LETWABA

5/03/2007

CHAIRPERSON: LOCAL GOVERNMENT PORTFOLIO COMMITTEE

NORTHERN CAPE PROVINCIAL LEGISLATURE



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Mankurwane, 8345

OFFICE OF THE DEPUTY SPEAKER

Date: 05 March 2007

Our Ref: Neg Man: B20B-2006
Your Ref:

Enquiries: CPC Haas

TO: Mr MJ Mahlangu
Chairperson of the NCOP

NEGOTIATING MANDATE FOR THE ELECTRICITY REGULATION AMENDMENT BILL [B20B - 2006]

(Section 76 Bill)

INTRODUCTION

The House met to consider the negotiating mandate as adopted by the Portfolio Committee on 05 March 2007 on the *Electricity Regulation Amendment Bill [B20B - 2006]*.

PROCESS FOLLOWED

The Speaker of the NCPL, has on receipt referred the *Electricity Regulation Amendment Bill [B20B - 2006]* to the Portfolio Committee on Housing and Local Government.

The Portfolio Committee received a briefing on the Bill from the Northern Cape's Permanent Delegate to the NCOP Hon Mathoahela at its meeting on the 22 February 2007.

The Portfolio Committee resolved at its meeting of 22 February 2007 to hold public hearings on the referred Bill in the areas of Frances Baard, Pixley ka Seme, Kgalagadi, Siyanda and Namaqua to solicit the views of the affected beneficiary communities and stakeholders with regard to the *Electricity Regulation Amendment Bill*.

Five (5) public hearings were held on 27 February 2007 and one (1) on the 28 February 2007 as per Committee resolution and both written and oral submissions were called for. The public engaged with the Members of the Legislature on their views.

On 01 March 2007 and 05 March 2007 the Portfolio Committee on Housing & Local Government deliberated and considered the *Electricity Regulation Amendment Bill [B20B - 2006]*.

PUBLIC INPUTS ON THE BILL

The public hearings held were well attended by the members of the public.

The members of the public supported the Bill and made the following comments:

- Municipalities should enter into agreement with the Service Provider and should be responsible for solely supplying communities.
- Tarrifs in all districts should be equal.
- The provision of electricity to farms should be clearly outlined.

- The Minister to be granted more powers to Intervene on certain matters.
- The law must ensure better access for vendors.
- The National government should budget to assist the provinces in the implementation of the Bill.

PORTFOLIO COMMITTEE POSITION ON THE BILL

The Portfolio Committee on Housing & Local Government in principle the Committee supports the Bill.

COMMITTEE COMMENTS ON THE BILL

- The possibility of a power station at Hondeklipbaai must be considered because distribution of electricity from the Western Cape to the Northern Cape will result in higher tariffs.
- National Treasury should capacitate and enable smaller municipalities to reticulate electricity.
- The Legislature should continue to lobby for a greater share of money and assist in the acquisition of financial and technical skills at municipal level.

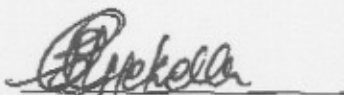
LEGAL ADVISE ON THE BILL

In order to assist the MEC in the monitoring this added responsibility and not only report to him or her (**clause 4, section 37 of the Bill**) it could be suggested that the MEC be alerted by way of an "early warning system" already in **section 35** of the **Bill** when the Regulator interacts with the municipality by adding the words "and the MEC" after the word "municipality" in subclause (1)(a).

It is important that the electricity reticulation function as bestowed by this bill, linked to **sections 46 and 47** of the **Local Government Municipality Systems Act, 2000 (Act No 32 of 2000)** which are concerned with performance management, the municipalities performance report as well as the relevant MEC responsibility to submit to the provincial legislature, a consolidated report on the performance of municipalities in the province.

ADOPTION OF THE BILL

The House mandate the Permanent Delegates to participate in deliberations at the negotiating stage and to **support** the Bill, taking note of the concerns raised by the Committee as well as those of the public



Ms G CIEKELLA
DEPUTY SPEAKER


Wes-Kaapse Provinsiale Parlement
Western Cape Provincial Parliament
IPalamente yePhondo leNtshona Koloni



Negotiating Mandate of the Western Cape Provincial Parliament

Report of the Standing Committee on Governance on the *Electricity Regulation Amendment Bill [B20 B - 2006]* (NCOP), dated 28 February 2007, as follows:

The Standing Committee on Governance having considered the subject of the *Electricity Regulation Amendment Bill [B20 B - 2006]* (NCOP), referred to the Provincial Parliament in terms of the rules of the National Council of Provinces (NCOP), begs to report that it confers on the Western Cape's delegation in the NCOP the authority to support the Bill without amendment.



MR PC MCKENZIE
CHAIRPERSON
2 March 2007