

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
ELECTRICITY REGULATION
BILL**

[B 29—2005]

*(As agreed to by the Portfolio Committee on Minerals and Energy
(National Assembly))*

[B 29A—2005]

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AMENDMENTS AGREED TO

ELECTRICITY REGULATION BILL
[B 29—2005]

ARRANGEMENT OF SECTIONS

1. On page 2, in line 14, to omit “consumer” and to insert “end user”.
2. On page 3, in line 13, to omit “Permission to use water resources” and to insert “Powers of entry and inspection”.

CLAUSE 1

1. On page 4, after line 6, to omit the definition of “consumer”.
2. On page 4, in line 11, to omit the definition of “Department”.
3. On page 4, in line 13, after “system” to insert “excluding trading”.
4. On page 4, after line 17, to insert:

“end user” means a user of electricity or a service relating to the supply of electricity;
5. On page 4, after line 20, to omit the definition of “integrated energy plan” and to substitute:

“integrated resource plan” means a resource plan established by the national sphere of government to give effect to national policy;
6. On page 4, in line 34, after “regulation” to insert “or rule”.
7. On page 4, after line 34, to insert:

“price” means a charge for electricity;
8. On page 4, in line 41, to omit “a written statement of charges, terms and conditions for services relating to” and to substitute “a charge for”.
9. On page 4, in line 45, after “system” to insert “excluding trading”.

CLAUSE 2

1. On page 4, in line 53, after “customers’ to insert “and end users”.
2. On page 5, in line 2, after “customer” to insert “and end user”.
3. On page 5, in line 3, after “customers,” to insert “end users,”.

CLAUSE 4

1. On page 5, in line 15, before “issue” to insert “consider applications for licences and may”.
2. On page 5, in line 18, to omit “and”.

3. On page 5, from line 19, to omit item (*dd*).
4. On page 5, in line 25, to omit “energy” and to insert “resource”.
5. On page 5, from line 29, to omit subparagraph (vi).
6. On page 5, in line 35, after “distributors” to insert “customers or end users”.
7. On page 5, from line 35, to omit “and municipalities”.
8. On page 5, from line 38, to omit item (iii).

CLAUSE 5

1. On page 5, in line 41, to omit “committees” and to substitute “forums”.
2. On page 5, in line 42, to omit “committees” and to substitute “forums”.

CLAUSE 6

1. On page 5, in line 45, to omit “consumer” and to substitute “end user”.
2. On page 5, in line 46, to omit “consumer” and to substitute “end user”.
3. On page 5, in line 47, after the first “Regulator” to insert “licensees,”.
4. On page 5, in line 48, to omit “consumers” and to substitute “end users”.
5. On page 5, in line 49 to omit “consumer”, wherever it occurs, and to substitute “end user”.
6. On page 5, in line 51, to omit “may” and to substitute “must”.
7. On page 5, in line 51, before “customer” to substitute “licensee”.
8. On page 5, in line 52, to omit “consumer” and to substitute “end user”.

CLAUSE 8

1. On page 6, in line 14, to omit “construction or”.

CLAUSE 9

1. On page 6, in line 23, after “Regulator” to insert “and stakeholders in the advisory forum”.

CLAUSE 10

1. On page 6, in line 27, to omit “after” and to insert “in”.
2. On page 6, in line 30, after “8” to insert “read with section 9”.
3. On page 6, in line 46, to omit “consumers” and to substitute “end users”.
4. On page 6, in line 47, to omit “consumer” and to substitute “end user”.

CLAUSE 11

1. On page 7, in line 3, to omit “construction or”.
2. On page 7, in line 17, to omit “energy” and to insert “resource”.
3. On page 7, in line 18, after “time” to insert “or provide reasons for any deviation for the approval of the Minister”.
4. On page 7, from line 20, to omit subsection (3).

CLAUSE 12

1. On page 7, after line 47, to insert:
 - (4) The Regulator must consider objections to the application contemplated in subsection (1) and make its decision available to the public together with its reasons for such decision.

CLAUSE 14

1. On page 8, from line 13, to omit “to each applicant for any” and to substitute “per applicant for each”.

CLAUSE 15

1. On page 8, in line 17, to omit “guidelines” and to substitute “directives”.
2. On page 8, in line 18, after “customers” to insert “or end users”.
3. On page 8, in line 18, after “customer” to insert “and end user”.
4. On page 8, from line 22, to omit “the criteria prescribed by the Minister” and to substitute “section 21”.
5. On page 8, in line 24, after “approval of” to insert “prices”.
6. On page 8, in line 25, before “rates” to insert “prices”.
7. On page 8, from line 29, to omit paragraph (*h*).
8. On page 8, in line 37, to omit “construct and”.
9. On page 8, in line 43, after “customers” to insert “and end users”.
10. On page 8, in line 47, after “customers” to insert “and end users”.
11. On page 8, from line 57, to omit paragraph (*v*).
12. On page 8, in line 59, after “customer” to insert “end user”.
13. On page 9, in line 2, to omit “prescribed condition” and to insert “condition prescribed by the Regulator”.

CLAUSE 16

1. On page 9, in line 8, after “approval of” to insert “prices, charges and”.
2. On page 9, in line 13, to omit “consumers” and to substitute “end users”.

CLAUSE 19

1. On page 10, in line 2, to omit “a fine not exceeding” and to substitute “10 per cent of the annual turnover of the licensee or”.
2. On page 10, in line 2, after “R2 000 000,00” to insert “(whichever is the higher amount)”.
3. On page 10, from line 2, to omit “for each day on which the contravention or failure to comply continues” and to substitute “commencing on the day of receipt of the notice contemplated in subsection (2)”.

CLAUSE 20

1. On page 10, from line 10, to omit “the licensee has failed to carry out the activities for which the licence was granted” and to substitute “there is any ground justifying such suspension or revocation”.
2. On page 10, from line 12, to omit subsection (2).

CLAUSE 21

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:
 21. (1) Any generation or transmission licence issued in terms of this Act is valid for a period of 15 years or such longer period as the Regulator may determine.
 - (2) Any distribution or trading licence issued in terms of this Act is valid for the period determined by the Regulator.
 - (3) A licensee may apply for the renewal of his or her licence.
 - (4) An application for renewal must be granted, but the Regulator may set different licence conditions.
 - (5) A licensee may not assign a licence to another party.

CLAUSE 22

1. On page 10, in line 25, to omit “or delegate”

CLAUSE 23

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Powers of entry and inspection

23. (1) Any person authorised thereto by a licensee may at all reasonable times enter any premises to which electricity is or has been supplied by such licensee, in order to inspect the lines, meters, fittings, works and apparatus belonging to such licensee, or for the purpose of ascertaining the quantity of electricity consumed, or where a supply is no longer required, or where such licensee may cut

off the supply, for the purpose of removing any lines, meters, fittings, works and apparatus belonging to such licensee.

(2) Any person wishing to enter any premises in terms of subsection (1) shall—

- (a) if possible, make the necessary arrangements with the legal occupant of the premises before entering such premises and shall adhere to all reasonable security measures, if any, of the occupant or owner of the premises;
- (b) exhibit his authorization at the request of any person materially affected by his activities.

(3) Damage caused by such entry, inspection or removal shall be repaired or compensated for by the licensee.

CLAUSE 42

1. On page 12, from line 4, to omit subsection (1) and to substitute:
 - (1) The Regulator must, in relation to any dispute arising out of this Act —
 - (a) if it is a dispute between licensees, act as mediator if so requested by both parties to the dispute;
 - (b) if it is a dispute between a customer or end user on the one hand and a licensee, registered person, a person who trades, generates, transmits, or distributes electricity on the other hand, settle that dispute by such means and on such terms as the Regulator thinks fit.”.
2. On page 12, in line 9, to omit “or settle disputes”.
3. On page 12, in line 13, to omit “settlement of disputes and”.
4. On page 12, in line 14, to omit “settlement of disputes” and to substitute “mediation or arbitration”.
5. On page 12, in line 16, to omit “settlement” and to substitute “mediation”.

CLAUSE 46

1. On page 13, in line 18, to omit “on the advice of” and to substitute “in consultation with”.
2. On page 13, in line 18, to delete “by notice in the *Gazette*”.
3. On page 13, from line 32, to delete subsection (2) and to substitute:
 - (2) The Minister has such powers as may be necessary or incidental to any purpose set out in subsection (1), including the power to—
 - (a) undertake such management and development activities, including entering into contracts, as may be necessary to organise tenders and to facilitate the tendering process for the development, construction, commissioning and operation of such new electricity generation capacity;
 - (b) purchase, hire or let anything or acquire or grant any right or incur obligations for or on behalf of the State or prospective tenderers for the purpose of transferring such thing or right to a successful tenderer;
 - (c) apply for and hold such permits, licences, consents, authorisations or exemptions required in terms of the Environmental Conservation Act, 1989 (Act No. 73 of 1989) or the National Environmental Management Act, 1998 (Act No. 107

of 1998), or as may be required by any other law, for or on behalf of the State or prospective tenderers for the purpose of transferring any such permit, licence, consent, authorisation or exemption to a successful tenderer;

- (d) undertake such management activities and enter into such contracts as may be necessary or expedient for the effective establishment and operation of a public or privately owned electricity generation business;
- (e) subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), issue any guarantee, indemnity or security or enter into any other transaction that binds the State to any future financial commitment that is necessary or expedient for the development, construction, commissioning or effective operation of a public or privately owned electricity generation business.

CLAUSE 47

1. On page 14, in line 5, after “customers” to insert “and end users”.
2. On page 14, in line 6, to omit paragraph (b).
3. On page 14, after line 22, to insert:
 - (f) the form and manner of applying for licences;
 - (g) publishing of advertisements by licensees and the contents thereof;
 - (h) the form and manner of applying for and the fees payable on application for licensing and registration;
 - (i) the fees to be paid in respect of mediation and the settlement of disputes;
 - (j) the setting of a framework for the determination of the period of validity of licences, criteria for the transfer and renewal of licences and the transfer or use of assets on a licence lapsing, including the ownership thereof;
4. On page 14, after line 27, to insert:
 - (c) norms and standards relating to quality of supply;
5. On page 14, from line 28, to omit paragraphs (b) to (j).
6. On page 14, from line 58, to omit paragraph (t).
7. On page 15, in line 7, to omit “and”.
8. On page 15, in line 8, to insert “and”.
9. On page 15, after line 8 to insert:
 - (d) duly consider the comments received.

SCHEDULE 2

1. On page 16, in item 1, after “only” to insert:
and not connected to an inter-connected power system
2. On page 16, in item 2, after “use” to insert:
used with rated capacity below 500 Kw
3. On page 16, in item 3, after “electricity” to insert “for own use”.