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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF MINERAL RESOURCES AND ENERGY

NO. 6823 **12 November 2025**

NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

RULES FOR CONDUCTING TRIBUNAL PROCEEDINGS

in accordance with

the Electricity Regulation Act, 2006 (Act No. 4 of 2006), Gas Act, 2001 (Act No. 48 of 2001), and Petroleum Pipelines Act, 2003 (Act No. 60 of 2003).

The National Energy Regulator of South Africa has, in terms of section 18(7) of the Electricity Regulation Act, 2006, section 34(3) of the Gas Act, 2001, and section 33(3) of the Petroleum Pipelines Act, 2003 made the Rules contained herein. An electronic version of the Rules is available at www.nersa.org.za.

Enquiries may be directed at the Regulator Secretary: NERSA
Telephone: 012 401 4600
Fax: 012 401 4700

Advocate Nomalanga Sithole
Chief Executive Officer

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1. SHORT TITLE

These Rules may be referred to or cited as Tribunal Rules.

2. PURPOSE

To establish procedural rules to be used by a Tribunal in conducting proceedings in terms of section 18 of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), section 26 of the Gas Act, 2001 (Act No. 48 of 2001) and section 25 of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003).

3. DEFINITIONS

In these Rules, unless the context indicates otherwise, the following definitions are applicable:

Act	means the National Energy Regulator Act, 2004 (Act No. 40 of 2004).
Allegation	means a statement or complaint that a licensee has contravened a licence condition or law relating to the operation or performance of the licenced operation or activity.
Answer	means a statement by a Respondent to a referral notice, filed with a Tribunal.
Applicant	means the Energy Regulator.
Complainant	means a person who makes an Allegation or lodges a complaint with the Energy Regulator against a licensee.
Contravention	means failure to comply with applicable law and/or a licence condition.
Days	mean any day of the week, excluding Saturdays, Sundays and public holidays .
Deliver	means to serve a Respondent with a notice or document, and/or to file a document with a Tribunal.
Electricity Regulation Act	means the Electricity Regulation Act, 2006 (Act No. 4 of 2006).
Gas Act	means the Gas Act, 2001 (Act No. 48 of 2001).

Governing legislation	means the Electricity Regulation Act, Gas Act, and Petroleum Pipelines Act.
Intervener	means any person who, in terms of Rule 15, has been granted approval to participate in the proceedings before a Tribunal.
Person/Party/Parties	means a natural and/or juristic person cited as an Applicant or Respondent in proceedings before a Tribunal.
Petroleum Pipelines Act	means the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003).
Public holiday	means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act 36 of 1994).
Referral	means the process of initiating proceedings before a Tribunal following a licensee's failure to comply with a compliance notice issued in terms of a governing legislation, and **'referred'** has a corresponding meaning.
Referral Notice	means a notice issued by a Tribunal to a Respondent after receiving an Applicant's Referral.
Regulator Support Unit	means a unit within NERSA entrusted with the secretariat of the Energy Regulator business.
Reply	means a Reply by an Applicant to an Answer.
Respondent	means any Person against whom relief is sought by an Applicant.
Tribunal	means a body constituted by the Energy Regulator to decide on the alleged contravention of the provisions of the Electricity Regulation Act, the Gas Act and or the Petroleum Pipelines Act.

4. INTERPRETATION

1. Expressions in the singular also denote the plural, and *vice versa.*
2. Words and phrases denoting natural persons also refer to juristic persons, and *vice versa*.
3. Pronouns of any gender include the corresponding pronouns of the other gender.

5. APPLICATION OF THESE RULES

These Rules shall apply to a Tribunal sitting over matters brought under:

1. section 26(2) of the Gas Act;
2. section 25(2) of the Petroleum Pipelines Act; or
3. section 18 of the Electricity Regulation Act.

6. REFERRAL OF A CONTRAVENTION TO A TRIBUNAL

1. A Contravention shall be referred to a Tribunal when the Applicant has so decided.

2. A Contravention shall only be referred to a Tribunal:
   (a) in respect of Gas and Petroleum Pipelines Regulation, after the Applicant has served a notice of non-compliance on a licensee and a licensee has failed to comply with such notice issued by the Energy Regulator in terms of the Gas Act or Petroleum Pipelines Act;
   (b) in respect of Electricity Regulation, if it is alleged by the Applicant that a Licensee has contravened or failed to comply with a licence condition issued in terms of the Electricity Regulation Act or any provisions of the Electricity Regulation Act; or
   (c) by submitting a section 32 of the Electricity Regulation Act investigation report confirming that an allegation made by a Complainant has substance. Where an allegation made by a Complainant is found to lack substance, a notice of non-referral will be issued by the Chairperson of the investigation, and the Complainant may decide to take the decision on review.

3. Any referral to a Tribunal must be filed with the Regulator Support Unit and must be accompanied by a statement setting out the following in numbered paragraphs:
   (a) A case number
   (b) The contravention
   (c) Material facts or points of law relevant to the allegation relied upon by the Applicant
   (d) The process undertaken prior to such a Referral, including copies of notices or investigation reports
   (e) The relief sought from a Tribunal.

7. INITIATING TRIBUNAL PROCEEDINGS

1. Within twenty (20) business days after a Referral has met the requirements of Rule 6 above:
   (a) The Regulator Support Unit shall issue a Referral Notice, similar to Form 1 of Schedule 2, addressed to a Respondent, with a copy to a Complainant:
      (i) detailing the Contravention or non-compliance with the licence condition(s);
      (ii) providing a copy of the statement referred to in Rule 6(3); and
      (iii) detailing the relief sought.

2. With regard to the Tribunal proceedings initiated subsequent to an investigation report in terms of section 32 of the Electricity Regulation Act, or an allegation of contravention of the licence condition or the Electricity Regulation Act from the Applicant, the Regulator Support Unit shall issue a Notice of Referral similar to Form 2 of Schedule 2 requesting the Tribunal to:
   (a) consider the report;

(b) hear representations by the Applicant, Complainant and Respondent;
(c) take a decision on the correctness of the allegations and findings; and
(d) issue and serve the Respondent with a notice to comply with the Act and/or licence condition.

3. In respect of Electricity Regulation, if it is alleged by the Applicant that a Licensee/Respondent has failed to comply with a notice issued in terms of section 18(2) of the Electricity Regulation Act, the Tribunal may:
(a) decide on the allegation; and
(b) if the allegation is correct, impose a penalty as prescribed in the Electricity Regulation Act.

8. SERVICE OF DOCUMENTS

1. The procedure detailed in Rule 8 will apply to the service of documents and processes.

2. Every notice or document that a Tribunal or either of the Parties has to serve on the other shall be effected by a delivery either by hand, or by a registered post or by facsimile or electronic mail by consent or sheriff:
(a) to the said Person or Party or Parties at the address stipulated in the licence or to their duly authorised agent;
(b) at the residence or place of business of the aforesaid Person or Party or Parties;
(c) if the Person or Party or Parties to be served have chosen a *domicilium citandi*, by delivering to the *domicilium* so chosen.

3. Any chosen address, such as a postal address, a facsimile address or an electronic mail address contemplated in Rule 8(1) may be changed by the delivery of a notice of a new address and thereafter all service shall be effected as provided for in Rule 8(1) at such a new address.

4. Service by registered post shall be deemed to have been effected at 10:00 in the forenoon on the fourth day after the postmarked date on the receipt for registration by the sender.

5. Chapter III, Part 2 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002) is applicable to service by facsimile or electronic mail.

6. If a Tribunal is unable to serve a document or notice through any of the means referred to in Rule 8(2) above, the Tribunal/Party shall serve a document or notice in any other manner recognised in law including edictal citation or substituted service.

9. ANSWER

1. A Respondent must, within fifteen (15) business days of receipt of a Referral Notice, file an Answer with the Regulator Support Unit and serve a copy on the Applicant and the Complainant.

2. In respect of Tribunal proceedings initiated subsequent to an investigation report in terms of section 32 of the Electricity Regulation Act, the Respondent may, within fifteen (15) business days of receipt of a Referral Notice, file written representations on a Contravention confirmed in the section 32 report with the Regulator Support Unit and serve a copy on the Applicant and the Complainant.

3. An Answer that raises only a specific point of law as it relates to Governing legislation or a point *in limine* must clearly set out the specific question of law in contention or the point *in limine*.

4. An Answer not raising any specific point of law as it relates to Governing legislation must detail:
   (a) an admission or denial of each averment set out in the Referral Notice or accompanying affidavit and where an averment is denied, a concise statement of the basis on which it is denied;
   (b) if a fact is not disputed, it will be admitted as such; and
   (c) an outcome desired by the Respondent.

5. An allegation set out in a Referral Notice that is not specifically denied in the Answer will be deemed to have been admitted.

6. In the event of a failure by the Respondent to file an Answer to the Notice of Referral, Rule 24 of the Tribunal Rules shall apply.

10. REPLY

1. An Applicant may within ten (10) business days after being served with an Answer, file and serve on a Respondent, a Reply to the issues raised.

2. If an Applicant does not file a Reply to the new issues raised in the Answer, it will be deemed that the new issues have been admitted.

3. In respect of Tribunal proceedings initiated subsequent to an investigation report in terms of section 32 of the Electricity Regulation Act, the Applicant and Complainant may, within ten (10) business days of receipt of the Respondent's written representations, file written representations on a Contravention confirmed in the section 32 report with the Regulator Support Unit and serve a copy on the Respondent and the Complainant (in case of the Applicant) or Applicant (in case of the Complainant).

11. AMENDING DOCUMENTS

1. A Party may apply to a Tribunal at any time prior to the commencement of a Tribunal hearing, but not after the conclusion of pre-hearing meeting for permission to amend its filed documents.

2. If a Tribunal permits any Party to amend its filed documents, it must also allow any other Party to the proceedings to amend, supplement or file additional documents. Each Party will be given a maximum of five (5) days to conclude the amendment process.

3. If any Party to the proceedings elects not to file, amend or supplement their filed documents consequent to the amendment made by the other Party, the Tribunal may consider the amended information as not being in contest unless it is patently evident that consideration of such information will adversely affect the rights of the other Party or industry.

12. CLOSE OF FILING OF DOCUMENTS

The filing of documents/pleadings shall be considered closed if:

1. the last day for filing a reply or subsequent pleading has elapsed and it has not been filed;
2. the parties agree in writing that the filing of documents is closed and such agreement is filed with the Tribunal; or
3. the parties are unable to agree as to the close of filing of documents, and the Tribunal, on application of a party, declares the filing closed.

13. SET DOWN OF MATTERS

1. After the close of filing of documents, a Tribunal may, of its own accord or on request by any of the Parties, set the matter down for hearing using a form similar to Form 3 of Schedule 2.

2. The Regulator Support Unit will send a Notice of Set-Down to the Parties in this regard, at least fifteen (15) business days before the hearing date.

14. PRE-HEARING MEETING

1. Prior to the first sitting of a Tribunal, in respect of a particular referral, the Tribunal may convene a pre-hearing meeting of all the Parties to the proceedings. Such a pre-hearing may be done online through Microsoft Teams or by the meeting of Parties in the same venue.

2. At a pre-hearing meeting, the Tribunal and all the Parties to the proceedings may:
   (a) establish procedures for protecting confidential information, including the terms under which participants may have access to that information; and
   (b) agree on:
      (i) technical or formal amendments to correct errors in any documents filed in the matter,
      (ii) clarifying and simplifying technical, legal and financial issues,
      (iii) obtaining admissions of particular averments or documents,
      (iv) the production and discovery of documents whether formal or informal,
      (v) a list of witnesses to be called during the proceedings of the Tribunal, the questioning of witnesses and the language in which each witness will testify,
      (vi) whether the Parties will be represented at a Tribunal hearing,

(vii) a date, place, time and schedule for the sitting of a Tribunal,
(viii) a date for submission of the heads of argument,
(ix) whether the proceedings will be oral or documentary,
(x) whether the Tribunal may make cost order, and the scale to be used in determining costs related to Tribunal proceedings, and
(xi) any other factor that might assist with fair and expedient resolution of the matter.

3. The Tribunal may give direction on any other matter, as it deems proper.

4. Within five (5) business days after a pre-hearing meeting, the Tribunal must provide minutes of the pre-hearing meeting and agreement on matters in sub-rule 12(2) above.

15. SETTLEMENT

1. At any time before a Tribunal makes an order, of its own accord or at the request of the Parties or either Party, the Tribunal may order an adjournment of the proceedings to allow a period of seven (7) calendar days for Parties to attempt to reach a settlement on any outstanding issue.

2. A settlement that the Parties have reached must be brought before a Tribunal and, if no objection is made by any party, the Tribunal shall note that the matter has been settled on the terms set out in the settlement agreement or statement.

3. On noting of the settlement by a Tribunal, the matter would have been concluded.

4. Should a Tribunal decide that a settlement be amended, Parties must effect the amendment and return the settlement to the Tribunal for confirmation.

16. REPRESENTATION OF PARTIES

1. A Party to Tribunal proceedings must, within three (3) working days of appointing a legal representative, notify a Tribunal as well as all the other Parties to the proceedings of the appointment of a legal representative and provide the details of such a representative.

2. On receipt or filing of a notice in terms of sub-rule 16(1), the address of such a representative will become the address of record for service of all notices and documents in the proceedings on that Party.

3. Despite the notice referred to in sub-rule 16(1) above, a person who, before receiving a notice in terms of sub-rule 16(1), had sent a notice to or effected service on a Party somewhere other than at the address specified in sub-rule 16(1) will be deemed to have validly served that notice or document, unless the Tribunal orders otherwise.

4. If a representative in the proceedings ceases to act for a Party, such a Party must deliver a notice of withdrawal of the instructions to the Tribunal and the other Parties. A representative may also serve a notice of withdrawal from the proceedings on the Tribunal and other Parties.

5. After receiving a notice referred to in sub-rule 16(4), the address of the Party formerly represented becomes the address for service on that Party of all notices or documents in the proceedings, unless a new address is furnished for that purpose.

17. CONSOLIDATION, JOINDER OR SUBSTITUTION OF PARTIES

1. A Tribunal may, of its own accord or on application by a Party, join any number of persons, whether jointly, jointly and severally, or in the alternative, as parties in the same proceedings, or consolidate proceedings if their respective rights to relief depend on the determination of substantially the same question of law or facts.

2. Proceedings shall not be combined or heard at the same time if the Tribunal is of the opinion that a matter within one proceeding that is of an intimate financial or personal nature may be disclosed in the other proceeding(s).

3. Where two or more proceedings or any part of them have been combined and combining the proceedings has unduly complicated or delayed the proceedings or caused prejudice to any of the Parties, or for any other reason which the Tribunal considers to be reasonable, the Tribunal may order that the proceedings are no longer combined and that the proceedings will continue separately.

4. If a Party to proceedings has been incorrectly or defectively cited, the Tribunal, may, on application and on notice to the Party concerned, correct the error or defect.

5. If during the proceedings it becomes necessary to substitute an existing Party, a Party requiring such substitution can submit and file a notice to have such a Party substituted.

6. An application by any person to join as a Party to the proceedings, or to be substituted for an existing Party, must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of those documents.

7. No joinder or substitution in terms of this procedure will affect the stage at which the proceedings are.

18. INTERVENORS

1. Any time after a Referral Notice is filed with a Tribunal, any person, other than a Complainant, who has a material interest in the relevant matter may apply to intervene in a Tribunal hearing by filing a notice. The notice must:
   (a) include a concise statement of the nature of the person's interest in the proceeding; and
   (b) be served on all the Parties to the proceedings.

2. Within ten (10) business days after receiving an application to intervene, the Tribunal may:
   (a) allow the requester to intervene, subject to any conditions; or
   (b) deny the request for any good cause.

3. If an application to intervene is allowed, the Tribunal must:
   (a) send to the intervenor a list of all non-confidential documents filed in the proceedings prior to the day on which the request for leave to intervene was granted; and
   (b) allow access by an intervenor to any document filed or received and entered as evidence, with due regard to the already established procedures for protecting confidential and personal information.

19. WITNESSES

1. If a Tribunal requires a witness to attend any proceedings to give evidence, the Tribunal may issue summons for that purpose, at least ten (10) working days before the hearing date.

2. If a witness is required to produce in evidence any document or thing in the witness' possession, the summons must specify the document or thing to be produced as well as the timeline and manner in which it shall be produced.

3. After summons have been issued, it must be served on the witness and proof of service must be filed with the Regulator Support Unit.

4. Before a witness may adduce evidence, they must take an oath or make an affirmation in a form as close as possible to the following before the Tribunal:
   I … (full name) swear/solemnly declare OR sincerely affirm that the evidence I shall give will be the truth, the whole truth, and nothing but the truth.

20. WITNESS FEES

If a witness in Tribunal proceedings is entitled to be paid a witness fee, such a fee shall be agreed between a witness and a Party requesting the witness' service and shall be paid by the Party requiring the services of such a witness.

21. INTERPRETERS AND TRANSLATORS

1. A party requiring the services of an interpreter must notify a Tribunal, through the Regulator Support Unit, at least ten (10) working days before the hearing date.

2. Before any person may interpret from the language used by any Party to the language determined as the official language of a Tribunal, such a person must take an oath or make an affirmation in the following form before the Tribunal:
   I... (full name) swear/ affirm that when called to interpret in proceedings before a Tribunal, I will correctly interpret to the best of my ability from the language of a witness/Respondent into the language of a Tribunal, and vice versa.

3. To the extent that is practically possible, the services of a sworn interpreter shall be enlisted.

4. Interpretation will be confined to sign language and one of the 11 official languages of South Africa.

22. WITHDRAWALS

At any time before a Tribunal hearing commences or is finalised, the Applicant may withdraw all or part of the issues raised in the Referral by:
1. serving a notice of withdrawal on each Party to the proceedings; and
2. filing a notice of withdrawal with proof of service on the other Party with the Regulator Support Unit.

23. MATTERS STRUCK OFF

1. A Tribunal may strike a matter off the roll if the Applicant is not present at the commencement of the hearing.

2. If a matter is struck off the roll, the matter may not be re-enrolled unless:
   (a) the Party concerned files an affidavit setting out a satisfactory explanation for the failure to attend the hearing; and
   (b) the Tribunal, on considering the explanation offered, directs that the matter be re-enrolled.

24. DEFAULT ORDER

1. If a person served with a notice of Referral has failed to Answer within the prescribed period of fifteen (15) business days, the initiating Party may apply to a Tribunal to have a default order issued.

2. The Tribunal may grant the order sought in terms of sub-rule(1) after it has heard any required evidence concerning the motion and it is satisfied that the initiating document was adequately served.

3. The default order must be served on or made available to all the Parties within three (3) working days from the date of the order.

4. A Party aggrieved by the default order issued against them may apply for the recission or varying of the default order only in the following circumstances:

   (i) The default order was erroneously sought or granted in the absence of the Party affected by the default order;

   (ii) An omission or error common to all the Parties resulted in the issuance of the default order; and

(iii) A material fact was not disclosed to the Tribunal, which if the Tribunal was aware of at the time of granting the default order would not have granted the default order.

25. LATE FILING, EXTENSION AND REDUCTION OF TIME

1. A Party to the proceedings may apply to a Tribunal to condone late filing of a document, or to request an extension of time to file such a document, by filing a request with the Tribunal.

2. The request referred to in sub-rule 25(1) above must also be served on any other Party to Tribunal proceedings to afford the other Party an opportunity to consent or object to such a request.

3. The Tribunal shall consider the application and make a determination, taking into account:
   (a) the degree of lateness;
   (b) the reasons for delay;
   (c) whether granting condonation is in the interest of justice; and
   (d) whether the late filing will not unduly prejudice the other party to the proceedings or otherwise prejudice the public interest.

26. CONDUCTING OF TRIBUNAL PROCEEDINGS

1. Unless the Tribunal directs otherwise, the proceedings shall take place at 526 Madiba Street, Arcadia, Pretoria, Gauteng, 0007.

2. The Tribunal may, at the commencement of the proceedings, require Parties to make their opening statements, with the Applicant presenting first and the Respondent last, to provide members of the Tribunal with a clear overview of the factual and legal bases for each party's case.

3. If it appears to the Tribunal that there is a question of law as it relates to Governing Legislation or fact that may conveniently be decided either before any evidence is led or separately from any other question, the Tribunal may, *mero motu* or on application by either party, make an order directing the disposal of such a question in such manner as it may deem fit and may order that all further proceedings be stayed until such question has been disposed of.

4. If a question in dispute is a question of law as it relates to Governing Legislation and the Parties are agreed on the facts, the facts may be admitted in the proceedings, either *viva voce* or by written statement, by the Parties and recorded by the Tribunal and an order may be given thereon without further evidence.

5. If at the close of documents exchange, the burden of proof is on the Applicant, the Applicant shall first adduce its evidence.

6. Either party shall be entitled to cross-examine any witness. The Tribunal may only ask questions for clarity.

7. If at the close of documents exchange the burden of proof is on the Respondent, the Respondent shall first adduce its evidence, and if necessary, the Applicant shall thereafter adduce its evidence.

8. If at the close of documents exchange, the burden of proof with regard to one or more of the issues is on the Applicant and that of proving others is on the Respondent, the Applicant shall be the first to lead evidence. The Respondent shall lead its evidence after the Applicant has closed its case.

9. In a case of dispute as to a Party on whom the burden of proof rests, the Tribunal shall direct which party shall first adduce evidence.

10. If, after the Applicant has closed its case, no case is made against a Respondent, the Respondent may apply for absolution from the instance. If the application is not granted, the Respondent shall then adduce its evidence.

11. Any Party may, with the leave of the Tribunal, adduce further evidence at any time before an order is made; but such leave shall not be granted if it appears to the Tribunal that prejudice will be caused to the other party.

12. After the evidence on behalf of both Parties has been adduced, the Parties may present their closing arguments. The Party who presented first shall have a right of reply.

13. If a Party to a matter fails to attend a hearing or to remain in attendance of the hearing before the Tribunal, and that Party:
    (a) is the Applicant, the Tribunal may strike the matter off the roll and issue a written ruling to that effect; or
    (b) is not the Applicant, the Tribunal may:
        (iv) continue with the proceedings in the absence of that party, or
        (v) adjourn the hearing to a later date.
    (c) In arriving at a decision in terms of sub-rule (1)(a) or sub-rule (1)(b)(i) above, the Tribunal must first satisfy itself that the Party concerned was properly notified of the date, time and venue of the proceedings; and no satisfactory reason exists to justify non-appearance.

14. In arriving at a decision in terms of sub-rule 13(b)(ii) above, the Tribunal must first satisfy itself that a satisfactory reason exists to justify non-appearance.

15. If a matter is struck off the roll, a matter may not be re-enrolled unless:
    (a) the Party concerned files an application for variation or rescission of a Tribunal order, to which is attached an affidavit setting out a satisfactory explanation for the failure to attend the hearing, within ten (10) working days of the date on which it became aware of such order; and

(b) the Tribunal, on considering the explanation offered, directs that the matter be re-enrolled.

16. If a Tribunal continued with proceedings in the absence of a party, that party may apply for rescission of a decision reached by the Tribunal in its absence on good cause.

17. A sitting of a Tribunal to hear any matter under these Rules shall be held and concluded within 60 business days from the date of Referral.

18. The Tribunal may adjourn the proceedings and reserve its decision or issue an order to close the matter.

27. POSTPONEMENTS

1. Any Party to the proceedings may apply to the Tribunal for the postponement of a hearing on good cause shown, and if permitted by the Tribunal, the Regulator Support Unit will notify the Parties of the postponement in writing.

2. If the hearing is postponed to a date to be determined in the future, any Party to the matter may apply to the Tribunal for it to be re-enrolled in terms of Rule 13 above in future, but no preference will be given to such matter on the roll unless a Tribunal decides otherwise.

3. If the hearing is postponed to a specific future date, no Notice of Set-Down needs to be sent to the Parties in terms of Rule 13 above.

4. When a Party requests a postponement, the Tribunal may consider any relevant factors, including:
   (a) the reason for the postponement request;
   (b) the extent to which prejudice will be suffered by the Party requesting the postponement if the postponement is refused;
   (c) the extent to which any other Party will suffer prejudice if the postponement is granted;
   (d) the extent to which the Party requesting the postponement gave advance notice to other parties and to the Tribunal of its request for a postponement;
   (e) the consent of other Parties to the request for postponement;
   (f) the length of the requested postponement;
   (g) previous delays including the number and length of previous postponements granted at the request of or with the consent of the Party now requesting a postponement;
   (h) the public interest in the efficient and timely conduct of proceedings; and
   (i) any other possible effects on the fairness of the proceedings.

5. The Tribunal may refuse a postponement where:
   (a) the postponement was requested less than five (5) business days before the scheduled hearing date;
   (b) the Tribunal is not satisfied that the postponement is necessary;
   (c) the only ground for the requested postponement is that the Party unreasonably delayed retaining a representative;

(d) the postponement would negatively affect the fairness of the proceedings; or
(e) the Tribunal is of the opinion that it would be inappropriate to grant the postponement in the circumstances.

28. RECORDING OF PROCEEDINGS

A Tribunal must keep a record of any proceedings before the Tribunal, including:
1. the initiating document;
2. notices relating to the proceedings;
3. the notice of any hearing;
4. all documentary evidence filed with the Tribunal;
5. electronic record; and
6. the final decision of the Tribunal and the reasons thereof.

29. POWERS AND ORDERS OF TRIBUNAL

A Tribunal has powers to:
1. decide on an allegation that a licensee has contravened or failed to comply with a licence condition or any provision of the Electricity Regulation Act, as contemplated in section 18(1) of the Electricity Regulation Act;
2. issue and have served a notice directing a licensee to comply with a licence condition or any provision of the Electricity Regulation Act in terms of section 18(2) of the Electricity Regulation Act;
3. decide on an allegation that the licensee has failed to comply with a notice issued and served in terms of section 18(2) of the Electricity Regulation Act;
4. impose a penalty in terms of section 18(4) of the Electricity Regulation Act of 10% of the annual turnover of the licensee or R2 million (whichever is the higher amount) per day, commencing on the date of receipt of the notice directing the licensee to comply;
5. decide on an allegation that the licensee has failed to comply with a notice directing a licensee to comply with the condition of licence or the provision of the Petroleum Pipelines Act;
6. impose a penalty or a fine in terms of section 25(2) of the Petroleum Pipelines Act not exceeding R2 million per day for each day on which the contravention or failure to comply with a licence condition or the provision of the Petroleum Pipelines Act continues;
7. decide on an allegation that the licensee has failed to comply with a notice directing a licensee to comply with the condition of licence or the provision of the Gas Act; and
8. impose a penalty or a fine in terms of section 26(2) of the Gas Act not exceeding R2 million per day for each day on which the contravention or failure to comply with the condition of licence or the provision of the Gas Act continues.

30. Review of Tribunal decisions

1. Any person affected by a decision of the Energy Regulator sitting as a tribunal may appeal to the High Court against such decision.

31. PUBLICATION OF TRIBUNAL DECISIONS AND RELATED INFORMATION

Non-confidential versions of Tribunal decisions will be published on the NERSA website at **www.nersa.org.za,** within 30 days of such decisions having been made.

32. PROTECTION OF PERSONAL INFORMATION AND CONFIDENTIAL INFORMATION

1. To the extent that any documents filed with a Tribunal in terms of these Rules and any other incidental process may contain personal information of either Party, all relevant provisions of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) shall apply.

2. Any alleged confidential information forming part of any documents filed with a Tribunal must be contained in a separate annexure clearly marked ‘confidential’, accompanied by a written statement setting out the grounds for the claim of confidentiality.

3. If a Tribunal agrees that the information referred to in sub-rule (2) above will be treated as confidential, access to such information including Tribunal decisions and reasons for decision which make reference to such information, shall be subject to the relevant provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

4. If the Tribunal notifies the Party claiming the confidentiality, that their information will not be treated as confidential, it may still not disclose that information to any other Party for at least ten (10) business days to allow the claiming Party enough time to decide if such should not be excluded from the documents required to be served on the Parties.

SCHEDULE 1

The contact details of the Tribunal are:

a) Physical address: Regulator Support Unit
National Energy Regulator of South Africa
526 Madiba Street
Arcadia
PRETORIA

b) Postal address: Regulator Support Unit
National Energy Regulator of South Africa
PO Box 40343
ARCADIA
0007

c) Telephone: 012 401 4600/1

d) Facsimile: 012 401 4700

SCHEDULE 2

FORM 1

IN THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA TRIBUNAL
(…… Regulation)
(Held at NERSA)

Case Ref:

In the matter between

NERSA **Applicant**

And

…… **Respondent**

REFERRAL NOTICE

Please **take note** that:

1. The Applicant decided on ……that the following allegation made against the Respondent be referred to the Tribunal:

2. Further, **take note** that the Tribunal has been requested to:
   a) ……; and
   b) …….

Dated at _____ on this _____ day of _____ 20….

_____
For the Tribunal

TO:
By email:

AND TO:

By email:

FORM 2

IN THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA TRIBUNAL
(Electricity Regulation)
(Held at NERSA)

Case Ref:

In the matter between

NERSA **Applicant**

And

…… **Respondent**

REFERRAL NOTICE
(Sec 32 of ERA)

Please **take note** that:

1. The Applicant decided on ……that the complaint lodged by ……. against the Respondent regarding the following allegation be referred to the Tribunal:

2. Further, **take note** that the Tribunal has been requested to:
   a) ……; and
   b) …….

Dated at _____ on this _____ day of _____ 20….

_____
For the Tribunal

TO:
By email:

AND TO:

By email:

FORM 3

IN THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA TRIBUNAL
(…… Regulation)
(Held at NERSA)

Case Ref: ……

In the matter between

NERSA **Applicant**

And

…… **Respondent**

Notice of Set down

Please **take note** that the Tribunal proceedings brought against you by NERSA as the Applicant have been set down for hearing on the …… of …….. 20…. at …… .

Dated at _____ on this _____ day of _____ 20….

_____
For the Tribunal

TO:

By email:

AND TO:

By email:

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