



Date: 9 April 2022

MEDIA STATEMENT

RESPONSE TO MEDIA ARTICLE TITLED 'NERSA'S FAILURE TO HOLD PUBLIC HEARINGS IS ILLEGAL'

The National Energy Regulator of South Africa (NERSA) would like to correct the erroneous information contained in an article titled '*NERSA's-failure-to-hold-public-hearings-is-illegal*' published on the Democratic Alliance (DA) website and various other news platforms on 4 April 2022.

The article erroneously stated that 'By foregoing a public participation process on the municipal tariff increase, NERSA is denying residents and municipalities an opportunity for a procedurally fair process to air their views on this increase'. This statement is incorrect, as NERSA did publish a consultation paper on the municipal guideline increase and benchmarks, requesting stakeholders to comment on the specific issues raised. The deadline for the submission of comments is 22 April 2022.

Section 3(3) of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) ('PAJA') states that:

If an administrator decides to follow a notice and comment procedure, the administrator must-

- a) take appropriate steps to communicate the administrative action to those likely to be materially and adversely affected by it and call for comments from them;*
- b) consider any comments received;*
- c) decide whether or not to take the administrative action, with or without changes; and*
- d) comply with the procedures to be followed in connection with the notice and comment procedures, as prescribed.*

Regulator Members:

**Adv NP Sithole (Chief Executive Officer)*

**Mr N Gumede *Ms N Maseti *Mr MW Mkhize Ms Z Mpungose Mr FK Sibanda*

**Full-Time Regulator Members*

The Energy Regulator opted not to hold a public hearing on the key issues highlighted in the consultation paper on the municipal guideline increase and tariff benchmarks, but rather decided to follow a notice and comment process. This is due to the fact that in the past, few to no presenters attended the public hearings to make representations to NERSA.

Furthermore, the Energy Regulator is required to approve the guideline increase and tariff benchmarks in time to allow municipalities to prepare tariff applications for consideration by NERSA. These approved tariffs, after consideration, are then used by municipalities to table their budgets to their respective councils. Stakeholders still have an opportunity to provide input on the consultation paper until the closing date for comments, which is 22 April 2022. The reason behind the Regulator's decision to follow a public participation process is to ensure that the final guideline increase and benchmarks are published by 11 May 2022, which will enable the municipal tariff process to be finalised for implementation by 1 July 2022, as indicated in Table 1 below.

Table 1: Indicative timelines

Task Name	Dates
Final Guidance and Benchmark publishing	11 May 2022
Guiding and Benchmark consultation paper presented to the Electricity Subcommittee (ELS)	22 March 2022
Closing date for comments	22 April 2022
Public Hearings	Date to be communicated in due course
Final Guidance and Benchmarks presented to ELS	3 May 2022
Final Guidance and Benchmarks successfully published	11 May 2022

Even though the process followed meets the legal requirements as set out in the PAJA, NERSA has identified a number of stakeholders who requested that a public hearing be held on the matter. It is for this reason that NERSA has decided to hold a public hearing on a date to be published later, which will provide stakeholders with a further opportunity to engage on the issues raised in the consultation paper.

NERSA remains committed to its regulatory principle of being transparent in its decision-making processes. Furthermore, NERSA assures all stakeholders and the public that its decisions are made in accordance with the law and in an effort to strike a fair balance between the interests of customers, end-users, licensees and investors in the electricity supply industry.

End.

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