

RULES FOR CONDUCTING TRIBUNAL PROCEEDINGS

in accordance with

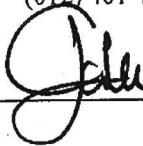
Electricity Regulation Act, 2006 (Act No. 4 of 2006), Gas Act 2001 (Act No. 48 of 2001), Petroleum Pipelines Act 2003, (Act No. 60 Of 2003).

The National Energy Regulator has in terms of section 35(3) of the Electricity Regulation Act, section 34(3) of the Gas Act and section 33(3) of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003) made the Rules contained herein. Electronic version of the Rules is available at www.nersa.org.za.

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DATE 25/10/2019

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1. Short Title

These Rules may be referred to or cited as Tribunal Rules

2. PURPOSE

To establish a procedural framework 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 -

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.
Deliver	means to serve a Respondent with a notice or document, and/or to file a document with a Tribunal;
Electricity Regulation Act	means Electricity Regulation Act, 2006 (Act No. 4 of 2006);
Gas Act	means Gas Act, 2001 (Act No. 48 of 2001);
Governing legislation	means Electricity Regulation Act, Gas Act, and Petroleum Pipelines Act;
Intervener	means any person who, (in terms of Rule 15), has been granted an 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 Applicant's Referral;
Regulator Support Unit	means a unit within National Energy Regulator 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 a relief is sought by an Applicant

4. INTERPRETATION

- (1) Expressions in the singular also denote the plural, and *vice versa*.
- (2) Words and phrases denoting natural persons refer also 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;
- (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 an Applicant has so decided.
- (2) A Contravention shall only be referred to a Tribunal:
 - (a) in respect of Gas and Petroleum Pipelines Regulation matters, 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 the Electricity Regulation Act;
 - (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 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) Contravention;
- (c) Material facts or points of law relevant to the allegation relied upon by the Applicant;
- (d) Process undertaken prior to such a Referral, including copies of notices or investigation reports; and
- (e) The relief sought from a Tribunal.

7. Initiating Tribunal Proceedings

(1) Within ten (10) 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 allegation;
 - (ii) providing a copy of the statement referred to in Rule 5(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 a Tribunal to:

- (a) consider the report;
- (b) hear representations by the Applicant, Complainant and Respondent;
- (c) take a decision on the correctness of the report with regard to an allegation found to be true or valid.

- (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, a 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 this 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 by hand, or by a registered post or by facsimile or electronic mail -
 - (a) to the said Person or Party or Parties at the address stipulated in the licence or to his or her 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 at 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 delivery of 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 o'clock in the forenoon on the fourth day after the postmarked date upon 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, a Tribunal/ Party shall serve a document or notice in any other manner recognized 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 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 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; and
 - (b) 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 22 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.
- (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, a 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 replication 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 a Tribunal.
- (3) the parties are unable to agree as to the close of filing of documents, and a Tribunal upon application of a party declares the filing closed.

13. Set down of Matters

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- (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 15 business days before the hearing date.

14. Pre-Hearing meeting

- (1) Prior to the first sitting of a Tribunal, a Tribunal may convene a pre-hearing meeting of all the Parties to the proceedings which pre-hearing may be done through telecom or by Parties being in the same venue.
- (2) At a pre-hearing meeting, a 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;
 - (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 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

(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 5 business days after a pre-hearing meeting, a Tribunal must provide minutes of the prehearing 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, a Tribunal may order an adjournment of the proceedings to allow 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 other party, a 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 advise that a settlement be amended, Parties must effect the amendment and return the settlement to a Tribunal for noting.

16. Representation of Parties

(1) A Party to a Tribunal proceedings must, within 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 a 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) notice will be deemed to have validly served that notice or document, unless 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 a Tribunal and the other Parties. A representative may also serve a notice of withdrawal from the proceedings on a 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 a 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 a Tribunal considers to be reasonable, a 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, a 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 proceedings are at.

18. Intervenor

- (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, which 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 10 business days after receiving an application to intervene, a 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, a 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, a Tribunal may issue summons for that purpose, at least 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, he or she must take an oath or make an affirmation in the form as close as possible to the following before a 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 witness fee, such a fee shall be agreed between a witness and a Party requesting the witness' service and shall be paid by a 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 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 official language of a Tribunal, such a person must take an oath or make an affirmation in the following form before 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 it is practically possible, the services of a court sworn interpreter shall be enlisted.

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, a matter may not be re-enrolled unless:
 - (a) a Party concerned files an affidavit setting out a satisfactory explanation for the failure to attend the hearing; and
 - (b) a 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) A Tribunal may grant the order sought in terms sub-rule (1) after it has heard any required evidence concerning the motion and if it is satisfied that the initiating document or notices were adequately served.
- (3) The default order must be served on or made available to all the Parties within three working days from the date of the 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 a Tribunal.
- (2) The request referred to in sub-rule 25(1) above must also be served on any other Party to a Tribunal proceedings to afford the other Party an opportunity to consent or object to such a request.
- (3) A 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 a Tribunal directs otherwise, the proceedings shall take place at 526 Madiba Street, Arcadia, Pretoria, Gauteng, 0083.
- (2) A 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 a Tribunal with a clear overview of the factual and legal bases for each party's case.
- (3) If it appears to a Tribunal that there is a question of law or fact which may conveniently be decided either before any evidence is led or separately from any other question, a 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 and the Parties are agreed upon the facts, the facts may be admitted in the proceedings, either *viva voce* or by written statement, by the Parties and recorded by a 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. A 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 start leading evidence. The Respondent shall lead its evidence after the Applicant has closed its case.

- (9) In a case of dispute as to a Party upon whom the burden of proof rests, a 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 a Tribunal, adduce further evidence at any time before an order is made; but such leave shall not be granted if it appears to a 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 shall have 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 a Tribunal, and that Party –
 - (a) is the Applicant, a Tribunal may strike the matter off the roll and issue a written ruling to that effect; or
 - (b) is not the Applicant, a Tribunal may –
 - (i) continue with the proceedings in the absence of that party; or
 - (ii) 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, a 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, a 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) a 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 10 working days of the date on which it became aware of such order; and
 - (b) a Tribunal, on considering the explanation offered, directs that the matter be re-enrolled.
- (16) If a Tribunal continued with the proceedings in the absence of a party, that party may apply for rescission of a decision reached by a 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) A Tribunal may adjourn the proceedings and reserve its decision.

27. Postponements

- (1) Any Party to the proceedings may apply to a Tribunal for the postponement of a hearing on good cause shown, and if permitted by a 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 a 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, a 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 a 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) A Tribunal may refuse the postponement where –
- (a) the postponement was requested less than 5 business days before the scheduled hearing date;
 - (b) a 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) a 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 record of any proceedings before a Tribunal including:

- (1) the initiating document;
- (2) notices relating to the proceedings;
- (3) the notice of any hearing;
- (4) all documentary evidence filed with Tribunal;
- (5) electronic record; and
- (6) the final decision of a Tribunal and the reasons thereof.

29. Powers and orders of Tribunal

A Tribunal has powers to –

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- (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 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 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.
- (8) impose a penalty or a fine 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. Publication of Tribunal decisions and related information

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

31. 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 a 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 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 a Tribunal are:

- a) Physical address: c/o Regulator Support Unit
National Energy Regulator Tribunal
526 Madiba Street
Arcadia
PRETORIA
- b) Postal address: c/o Regulator Support Unit
National Energy Regulator Tribunal
P O Box 40343
ARCADIA

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- c) Telephone: (012) 401 4600/1
- d) Facsimile: (012) 401 4700
- e) Email: Tribunal@nersa.org.za

SCHEDULE 2**FORM 1****IN THE NATIONAL ENERGY REGULATOR TRIBUNAL****(..... Regulation)****(Held at NERSA)****Case Ref:**

In the matter between

NERSA**Applicant****And****Respondent**

.....

REFERRAL NOTICE

Please **Take Notice** that:

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

2. Further, **Take Notice** that the Tribunal is requested

to

a); and

b)

Dated at _____ this _____ day of _____ 2018

For the Tribunal

TO:

By email:

AND TO:

By email:

Form 2

IN THE NATIONAL ENERGY REGULATOR TRIBUNAL

(Electricity Regulation)

(Held at NERSA)

Case Ref:

In the matter between

NERSA

Applicant

And

.....

Respondent

REFERRAL NOTICE

(Sec 32 of ERA)

Please Take Notice that:

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3. The Applicant decided onthat the complaint lodged by against the Respondent regarding the following allegation be referred to the Tribunal:

4. Further, **Take Notice** that the Tribunal is requested to

a); and

b)

Dated at _____ this _____ day of _____ 2018

For the Tribunal

TO:

By email:

AND TO:

By email:

Rules for electricity, piped gas and petroleum pipelines tribunal proceedings

Form 3**IN THE NATIONAL ENERGY REGULATOR TRIBUNAL****(..... Regulation)****(Held at NERSA)****Case Ref:****In the matter between****Rules for electricity, piped gas and petroleum pipelines tribunal proceedings**

NERSA

Applicant

And

Respondent

.....

Notice of Set down

Please **Take Notice** 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 _____ this _____ day of _____ 2018

For the Tribunal

TO:

By email:

AND TO:

By email: