



**JULY 2021
OVERVIEW OF**



NATIONAL ENERGY REGULATOR OF SOUTH AFRICA



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BACKGROUND

The National Energy Regulator (NERSA), a Schedule 3A Public Finance Management Act, 1999 (Act No. 1 of 1999) Public Entity was established on 01 October 2005 in terms of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) to regulate:

- the Electricity industry [Electricity Regulation Act, 2006 (Act No. 4 of 2006)];
- the Piped-Gas industry [Gas Act, 2001 (Act No. 48 of 2001)]; and
- the Petroleum Pipelines industry [Petroleum Pipelines Act, 2003 (Act No. 60 of 2003)].



NERSA'S VISION

To be a recognised world-class leader in energy regulation.



NERSA'S MISSION

To regulate the energy industry in accordance with government laws and policies, standards and international best practices in support of sustainable and orderly development.



VALUES

- Passion
- Spirit of Partnership
- Excellence
- Innovation
- Integrity
- Responsibility
- Professionalism
- Pride



REGULATORY PRINCIPLES

- Transparency
- Neutrality
- Consistency and Predictability
- Independence
- Accountability
- Integrity
- Efficiency
- Public Interest

1. STRATEGIC OUTCOME-ORIENTED GOALS

NERSA has formulated the following five strategic outcome-oriented goals:

- to facilitate Security of Supply in order to support sustainable socio-economic development in South Africa;
- to facilitate investment in infrastructure in the energy industry to support sustainable socio-economic development in South Africa;
- to promote competitive and efficient functioning of the energy industry in order to sustain socio-economic development in South Africa;
- to facilitate affordability and accessibility in the energy industry to balance socio-economic interests of all stakeholders in support of economic development of South Africa and a better life for all; and
- to position and establish NERSA as a credible and reliable regulator in order to create regulatory certainty.



2. NERSA'S MANDATE

NERSA's mandate is anchored in the following:

Four Primary Acts:

- National Energy Regulator Act, 2004 (Act No. 40 of 2004)
- 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)

NERSA derives its revenues by, among others, imposing levies on the regulated industries following a prescribed transparent procedure.

Three Levies Acts:

- Gas Regulator Levies Act, 2002 (Act No. 75 of 2002)
- Petroleum Pipelines Levies Act, 2004 (Act No. 28 of 2004)
- Section 5B of the Electricity Act, 1987 (Act No. 41 of 1987)

The following Acts are also applicable to NERSA's conduct of its business.

Three Facilitating Acts:

- Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA)
- Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA)
- Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) (PAJA)

3. INSTITUTIONAL STRUCTURE

In terms of section 5 of the National Energy Regulator Act, the Minister of Energy appoints nine Regulator Members:

Of the nine Regulator Members:

- four are Full-Time Regulator Members (FTRMs) and hold office for a period of five years;
- five are Part-Time Regulator Members (PTRMs) and hold office for a period of four years; and
- The Chairperson and Deputy Chairperson are Part-Time Members.

The Full-Time Regulator Members are:

- the Chief Executive Officer; and
- three Members, each primarily responsible for Electricity, Piped-Gas and Petroleum Pipelines industry regulation, respectively.



4. STRATEGIC OBJECTIVES

The strategic objectives of NERSA, expressed as the desired end-state of the energy industry, are stated as:

- establishing a regulatory environment that facilitates investment in energy infrastructure;
- ensuring energy supply that is certain and secure for current and future user needs;
- ensuring that fair competition exists within the energy industry;
- ensuring that regulatory certainty exists within the energy industry;
- ensuring that energy is accessible and affordable for all citizens; and
- ensuring that NERSA is established and positioned as a credible and reliable regulator.

5. PROGRAMMES

To achieve its outcome-oriented goals, NERSA will deliver on its strategic objectives through the following structured programmes:

- setting and/or approving tariffs and prices;
- licensing and registration;
- compliance monitoring and enforcement;
- dispute resolution including mediation, arbitration and the handling of complaints;
- setting of rules, guidelines and codes for the regulation of the three industries; and
- establishing NERSA as an efficient and effective regulator.

6. REGULATORY FUNCTIONS

NERSA sets national best practice standards for the general functioning and conduct of all role-players in the piped-gas, petroleum pipelines and electricity sector.



Electricity Regulation	Petroleum Pipelines Regulation	Piped-Gas Regulation
Licensing: Generation, Transmission, Distribution, Import and Export, and Trading	Licensing: Petroleum pipelines Operation, Construction, Storage and Loading	Licensing: Piped-gas Construction, Conversion, Operation and Trading
Tariffs and Price: Setting or approval	Tariffs and Price: Setting or approval	Tariffs and Price: Approve maximum prices, and monitor/ approve and if necessary regulate tariffs
Setting of Licence conditions and Standards	Setting of Licence conditions and Standards	Setting of Licence conditions and Standards
Monitoring, Compliance and Dispute Resolution	Monitoring, Compliance and Dispute Resolution	Monitoring, Compliance and Dispute Resolution
Issuing Rules	Issuing Rules	Issuing Rules

7. REGULATORY INDEPENDENCE

- Section 9(1)(c) of the National Energy Regulator Act provides that the Regulator must act independently of any undue influence or instructions.
- The Energy Regulator carries out its regulatory functions in line with its regulatory principles (one of which is independence) and governing legislation.
- Regulatory independence is defined in the NERSA regulatory principles as independence from regulated entities, political influence and any customer or customer groups.
- To ensure regulatory independence, the Energy Regulator has developed regulatory mechanisms (policies, procedures, rules, guidelines and systems, etc.) that make its decision-making process open, transparent, credible, consistent and predictable, as well as making it accountable for its decisions.



8. REGULATORY PROCESSES

- To achieve a culture of accountability, openness and transparency, NERSA ensures that public participation takes place in all its processes.
- The Constitution of South Africa and the Promotion of Administrative Justice Act require administrative action to be open, transparent, reasonable and procedurally fair.
- Energy Regulator meetings are open to the public, except when confidential, proprietary or commercially sensitive matters are discussed.
- Applications for tariffs (i.e. Eskom's MYPD3 application) and licences are advertised for public comment.
- Consultation papers, methodologies and guidelines are advertised for public comment.
- Public hearings take place during which stakeholders may provide comments.
- Final decisions by the Energy Regulator take comments into account.
- Section 10 of the National Energy Regulator Act provides that every decision of the Energy Regulator must be:
 - in writing, consistent with the Constitution and all applicable laws;
 - in the public interest;
 - within the powers of the Energy Regulator as set out in the National Energy Regulator Act and the industry specific Acts;
 - taken within a procedurally fair process in which affected persons have the opportunity to submit their views and present facts and evidence;
 - based on reasons, facts and evidence (summarised and recorded); and
 - explained clearly as to its factual and legal basis and reasons therefore.
- Decisions and reasons of the Energy Regulator must be available to the public (in terms of the PAIA).
- Any persons affected by a decision of the Energy Regulator may take it for judicial review to the High Court (in terms of PAJA).
- Any persons affected by a decision of the Energy Regulator sitting as a Tribunal may appeal to the High Court.



9. GOVERNANCE

In its quest to adhere to the best practices and sound governance principles, NERSA subjects itself to an annual assessment on the effectiveness of NERSA and its Committees.

Regulatory Subcommittees are open to the public, except where confidential, proprietary or commercially sensitive matters are to be considered:

Electricity Subcommittee (ELS)

- Six Members (all four FTRMs and two PTRMs)
- Chaired by Member Primarily Responsible for Electricity
- Monthly meetings

Piped-Gas Subcommittee (PGS)

- Six Members (all four FTRMs and two PTRMs)
- Chaired by Member Primarily Responsible for Piped-Gas
- Monthly meetings

Petroleum Pipelines Subcommittee (PPS)

- Six Members (all four FTRMs and two PTRMs)
- Chaired by Member Primarily Responsible for Petroleum Pipelines
- Monthly meetings

Cross-Cutting Subcommittee

- **Regulator Executive Committee (REC)**
 - Four Members (all four FTRMs)
 - Chaired by the CEO
- Meetings held twice a month
- Committee considers regulatory activities as delegated by the Energy Regulator in the Delegation Matrix, and operational matters.



10. COMPLAINTS AND DISPUTES

What do you need to do?

- First lodge your complaint with your supplier.
- Assistance from NERSA should be sought as a last resort – if the complaint remains unresolved, phone, email or write to the NERSA Electricity Licensing, Compliance and Dispute Resolution Department.
- Provide the NERSA Electricity Licensing, Compliance and Dispute Resolution Department with all the relevant details of the complaint.

Email: complaints@nersa.org.za

Telephone: 012 401 4600

Fax: 012 401 4700

NERSA website enquiries: www.nersa.org.za

11. CONTACT DETAILS

National Energy Regulator (NERSA)

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Postal address: PO Box 40343, Arcadia, 0007

Telephone: 012 401 4600

Fax: 012 401 4700

Email: info@nersa.org.za

Email (complaints): complaints@nersa.org.za

Website: www.nersa.org.za



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