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17 January 2024

TO: **Ms Nomfundo Maseti**
The National Energy Regulator of South Africa
Acting full-time NERSA board member responsible for electricity regulation

PER: **(Email) ertsa@nersa.org.za**

Dear Ms Maseti

SUBMISSION OF COMMENTS BY THE ORGANISATION UNDOING TAX ABUSE (OUTA) IN RESPECT OF ESKOM'S RETAIL TARIFF PLAN (RTP) APPLICATION

This submission is in response to the publication of Eskom's Retail Tariff Plan Application with proposed changes to Eskom Standard Tariffs, and the associated NERSA Consultation Paper on Eskom's Retail Tariff Plan (hereafter referred to as RTP) for implementation in the 2025/26 financial year commencing 1 April 2025, and NERSA's call for written comments to these by 16h00 on 17 January 2024.

The comments and responses below are submitted in terms of the above, by the Organisation Undoing Tax Abuse ("OUTA"). OUTA is a non-profit civil action organisation dedicated to working for a better South Africa. OUTA was established to challenge the abuse of authority, and particularly the abuse of taxpayers' money.

OUTA has a strong interest in the electricity sector because the sector, including state-owned entity Eskom, has been mismanaged for years. It resulted in power supply shortages, higher prices, socio-economic hardship for electricity customers, substantial bailouts with taxpayers' funds (which should have been available for alternative socio-economic spending), and a devastating impact on the economy.

OUTA acknowledges and thanks Eskom and NERSA for the work and effort that has gone into the preparation of the RTP application and the associated consultation paper. We are grateful for the opportunity to comment and respond to these.

THE SUBMISSION

Eskom's RTP application has far-reaching implications and impact on South Africa's electricity supply industry ("ESI"), electricity distribution industry ("EDI"), Eskom, electricity customers (residential, commercial, industrial, mining, agricultural, municipal and transportation), the South African economy and society in general.

This submission reflects analyses and inputs by OUTA's executives and relevant staff that underpin this appraisal of Eskom's RTP application and the associated NERSA consultation paper.

OUTA does not intend to comment point-by-point on each paragraph and/ or each proposal contained in the Eskom RTP application in a legalistic way.

Instead, OUTA herewith provides its views and inputs on electricity tariff principles in general and responds broadly with recommendations in respect of some the major tariff proposals and tariff changes covered by the Eskom RTP application that are within OUTA's competence and experience.

The analyses, comments and subsequent recommendations contained herein, are based on OUTA's own research and experience, as well as research, policy positions and reports by other civil society, community, business and industry associations, NGOs and other stakeholders.

OUTA makes a clear distinction between NERSA's allowed revenue to Eskom, the resulting average price of Eskom electricity and the family of Eskom electricity tariffs that recover the allowed revenue.

OUTA recognises the requirement for NERSA to allow Eskom to recover its prudently and efficiently incurred operating costs plus a fair return on assets through electricity tariffs. In other words, that Eskom's average electricity price needs to recover its prudently and efficiently incurred costs.

However, OUTA does not believe that Eskom's tariffs should or can ever be cost reflective. Electricity tariffs are invariably applied across broad customer categories, and contain various political, social and economic pricing signals and cross-subsidies, making cost reflectivity to individual customer classes and/ or individual customers within a customer class, impossible and in some cases undesirable.

TARIFF PRINCIPLES AND MISCONCEPTIONS

OUTA has the following broad and general views on tariffs for cost recovery and makes the following observations:

- The costs of a service provider (for example Eskom Distribution or a municipal distributor) need to be clearly defined and the various ways of recovering the costs and revenue for funding the services provided need to be clearly defined, including but not limited to tariffs for supply of water, electricity, sanitation, property rates and taxes, levies, internal cross-subsidies, external subsidies, fiscal support and grants.

- Electricity tariffs need to be clearly targeted at defined customer segments and there must be clarity on the objectives of the tariff.

- The target customer segments and customers should be able to afford and pay the tariff. For example, to ensure affordability for indigent and poor residential customers, remote rural customers, energy- and labour-intensive industries under threat, cross-subsidies may become necessary and desirable to meet policy objectives.

- Electricity tariffs should generally provide signals for efficiency in respect of both energy (kWh) usage, maximum demand and network capacity.

- An electricity tariff does not necessarily need to be (and is invariably not) cost-reflective for customers within a particular tariff or customer class, or for the different customer classes of the electricity distributor.

- An electricity tariff does do not necessarily need to have fixed (service, capacity and/ or network access) component and an active energy (kWh) component to recover the fixed and variable costs of the supplier. Costs can be recovered effectively within the objectives of a tariff with only a fixed component, or only a flat-rate variable component, or time-of-use components, or combinations of these and other economic signals.

- The fixed and variable components of an electricity tariff do not necessarily have to be (and are invariably not) in the same proportion as the fixed and variable costs of the supplier.

- Electricity tariffs can incorporate a wide range of cost recovery components other than fixed components and flat-rate active energy ("kWh") components, such as reactive energy ("kvarh") rates, time-of-use components, kVA demand charges, kW demand charges, penalties for exceeding maximum notified demand, penalties for low power factor, etc.

- Cross-subsidies are normal and invariably exist and are not necessarily undesirable, both within a particular electricity tariff, and between the tariffs for different customers and customer classes of a supplier.

- Cross-subsidies may, should and invariably do occur from larger customers to smaller customers, urban customers to rural customers, wealthier customers to poorer or indigent customers, commercial and industrial customers to residential customers, etc.

- The cross-subsidies and external subsidies associated with provision of services and cost recovery need to be clearly calculated and transparent in respect of the quantum needed to balance any cost deficits and ensure sustainability.

- Tariffs can and do incorporate a wide range of incentives and penalties, which are not necessarily cost reflective, to meet policy objectives, tariff objectives, and/ or influence customer behaviour, for example:
  - To encourage efficient use of electricity;
  - To encourage use of electricity during certain hours of the day, days of the week and season of the year, and to use less electricity during other times;
  - To encourage lower electricity consumption during peak and standard periods, and to discourage demand spikes, high demand and/ or usage above notified maximum demand;
  - To encourage use of clean, renewable energy with low carbon emissions, and discourage use of polluting, non-sustainable energy with high carbon emissions;
  - To improve power factor and load factor of individual customers closer to unity, and thus improve and maximise network utilisation.

- The electricity tariffs of a supplier do not necessarily need to (and invariably do not) recover all the costs of the supplier and a fair return on assets. There are other possible revenue streams to cover the gap, including cross-subsidies from other services, external subsidies, fiscal support and grants.

- External subsidies, for example by government, development finance institutions, banks, and donors, are not unusual or necessarily undesirable, and can be applied to cover some of the costs of the supplier, for example poverty relief, to drive certain policy and socio-economic objectives and customer behaviour.

- Electricity tariffs should be rational and easy to understand and should enable ease of comparison between different tariff options.

- Electricity tariffs should be practical and easy to implement, to meter and bill.

MAJOR ISSUES COVERED BY THESE COMMENTS BY OUTA

The major issues covered by these comments and recommendations by OUTA cover, are:

- Elimination of inclined block tariffs for residential customers.

- Single-part, flat-rate, energy (kWh) tariffs for all residential prepaid customers.

- A two-part tariff option with a fixed monthly component and a flat-rate energy component (without time-of-use) for residential postpaid customers.

- A two-part tariff option with a fixed monthly component and separate import/ export time-of-use energy (kWh) components for residential postpaid customers.

- The mandatory requirement of Eskom's proposed Homeflex time-of-use tariff for residential customers with small-scale embedded generation.

- A three-part tariff with a fixed monthly component, separate import/ export time-of-use energy (kWh) components and a maximum kVA demand component for commercial, agricultural and smaller manufacturing/ industrial customers.

- A four-part tariff with a fixed monthly component, separate import/ export time-of-use energy components, a reactive energy component and a notified maximum MW demand component, for large industrial/ mining customers.

- Review and rationalisation of tariffs for municipal electricity distributors.

- Changes to the time-of-use tariff periods for summer and winter seasons, weekdays, weekends, public holidays.

- Increasing the fixed components of electricity tariff rates with correspondingly lower variable energy components.

Each of the above issues is now dealt with further in more detail, as follows:

1. Elimination of inclined block tariffs for residential customers

OUTA supports the elimination of inclined block tariffs for energy (kWh) for residential customers, as these are seen to be unnecessarily complicated, punitive, discriminatory and economically perverse to larger residential customers.

For all residential tariffs, OUTA further supports the introduction of flat-rate energy tariffs wherever there are currently inclined block tariffs for energy (kWh).

This makes energy tariffs more rational, intuitive and acceptable to customers, with energy bills simply in proportion to energy consumption.

This also significantly simplifies metering, billing and payments.

2. Single-part, flat-rate energy (kWh) tariffs for all residential prepaid customers.

OUTA proposes simple, flat-rate energy (kWh) tariffs, without any fixed component or inclined block tariff components, and without time-of-use components for ALL residential prepaid customers with 20 A, 40 A and 60 A prepayment meters.

This makes prepaid tariffs more rational, intuitive and acceptable to customers, with energy bills simply in proportion to energy consumption.

This also significantly simplifies metering and payments.

The energy-only rates for 20 A, 40 A and 60 A prepaid meters should be different (i.e. higher for 40 A meters and higher still for 60 A meters) to compensate for the increased supply capacity.

The energy-only rate for 60 A prepaid meters should be carefully chosen to provide an economic signal as to when it is advantageous for a customer to change from a 60 A prepayment meter to a credit meter tariff with a fixed monthly component and a variable energy (kWh) component.

3. A two-part tariff option with a fixed monthly component and a flat-rate energy (kWh) component (without time-of-use) for residential postpaid customers.

OUTA proposes a simple two-part tariff option with a fixed monthly component and flat-rate energy (kWh) component without time-of-use, for residential postpaid customers with 60 A single-phase or 100 A three-phase credit meters.

OUTA proposes that this option should not be mandatory for residential installations with credit meters, but should be an option for ALL residential customers, including those with small-scale embedded generation (solar PV and battery energy storage).

This option significantly simplifies metering and billing.

4. A two-part tariff option with a fixed monthly component and separate import/ export time-of-use energy (kWh) components for residential postpaid customers.

OUTA proposes a tariff option with a fixed monthly component and separate import/ export time-of-use energy (kWh) components, for residential postpaid customers with 60 A single-phase or 100 A three-phase time-of-use credit meters.

OUTA proposes that this option should not be mandatory for residential installations with small-scale embedded generation, but should be an option for ALL residential customers.

In addition, the tariff rates (both fixed component and time-of-use energy components) should be carefully chosen so as to be revenue neutral for the average residential customer load profile, but provide economic incentives to:

- Reduce energy consumption during peak and standard periods, and shift this to energy consumption during off-peak periods.
- Install small-scale embedded generation to reduce energy required from the network.
- Oversize solar PV installations to allow export of excess power into the network.

5. The mandatory requirement of Eskom's proposed Homeflex time-of-use tariff for residential customers with small-scale embedded generation.

OUTA opposes the mandatory and discriminatory requirement of Eskom's proposed Homeflex time-of-use tariff for residential customers with small-scale embedded generation.

OUTA recommends that tariff options should be voluntary as opposed to mandatory and should be non-discriminatory within a particular customer class, and it should provide economic signals and incentives to encourage desired lifestyle changes and electricity consumption behaviour.

6. A three-part tariff with a fixed monthly component, separate import/ export time-of-use energy (kWh) components, and a maximum kVA demand component, for commercial, agricultural and smaller manufacturing/ industrial customers.

OUTA recommends a three-part tariff with a fixed monthly component, separate import/ export time-of-use energy (kWh) components and a maximum kVA demand component, for commercial, agricultural and smaller manufacturing/ industrial customers.

This simplifies metering and billing for commercial, agricultural and smaller manufacturing/ industrial customers.

This also provides economic incentives for individual customers to manage maximum demand, to maintain a power factor close to unity for effective distribution network utilisation and to install small-scale embedded generation.

7. A four-part tariff with a fixed monthly component, separate import/ export time-of-use energy (kWh) components, a reactive energy (kvarh) component and a notified maximum MW demand component, for large industrial/mining customers.

OUTA recommends a four-part tariff with a fixed monthly component, separate import/ export time-of-use energy (kWh) components, a reactive energy (kvarh) component and a notified maximum MW demand component with penalties for exceedance, for large industrial/ mining customers.

This provides economic incentives for individual customers to maintain demand within their notified maximum demand, to maintain power factor and load factor close to unity for effective network utilisation, and to install embedded generation.

8. Review and rationalisation of tariffs for municipal electricity distributors.

OUTA recommends a thorough, independent review of the structure, electricity tariff rates and notified maximum demands and penalties for exceedance that are applicable to large, medium and smaller municipal electricity distributors.

OUTA believes that electricity tariffs to electricity distributors are outdated and structurally inappropriate for both Eskom and non-Eskom electricity distributors.

OUTA recommends that electricity tariffs to both Eskom and non-Eskom electricity distributors should be aligned to ensure rationality, equity and consistency among and between Eskom and non-Eskom distributors.

OUTA recommends that electricity tariffs for large, medium and smaller municipal electricity distributors should be rationalised and limited to three tariffs (one each for large, medium and smaller municipal electricity distributors).

OUTA recommends that the tariffs for municipal electricity distributors should have a fixed monthly component, time-of-use energy (kWh) components, a maximum kVA demand charge for smaller electricity distributors, a reactive energy (kvarh) component for medium and large municipal electricity distributors and a notified maximum demand component (with penalties for exceedance) for medium and large municipal electricity distributors.

9. Changes to the time-of-use tariff periods for summer and winter seasons, weekdays, weekends, public holidays.

OUTA recommends an independent review of Eskom's proposed changes to its time-of-use tariff structure, time-of-use periods for summer and winter seasons, weekdays, weekends and public holidays, and time-of-use tariff rates.

OUTA believes that, after many years of application, Eskom's current time-of-use tariff structure may be outdated and structurally inappropriate.

10. Increasing the fixed components of electricity tariffs with correspondingly lower variable energy components.

OUTA notes with concern Eskom's statements and intentions to significantly increase the fixed components of its electricity tariffs and correspondingly lower the variable energy components.

OUTA considers this to be a self-serving intention by Eskom, as the dominant incumbent, to minimise normal business risk by moving to secure and maximise its own revenue come what may and pass the risks of changing grid electricity demand and changing generation technologies onto its customers.

OUTA rejects the notion that the price or tariff of a product or service should separately reflect the fixed and variable components of the supplier's cost structure, or that Eskom's electricity tariffs must or should have fixed and viable components that are in the same proportion to the fixed and variable costs of Eskom.

For example, the unit price of widgets from Shoprite Checkers has a variable cost component only and does not have any fixed component. The infrastructure, property, warehouse, salaries and other fixed costs of the retailer, as well as the variable widget unit costs, are recovered through the widget unit price only, in proportion to the number of widgets purchased.

As another example, uncapped data via a fibre-optic connection from an internet service provider has a fixed monthly cost component only, with no variable data cost component. The fixed infrastructure costs and variable data costs of the service provider are recovered through the fixed monthly price only.

This demonstrates that fact that prices of various products and services may have a fixed monthly component only, or a variable component only, or combinations of both in the case of some electricity tariffs, and that the ratio between the fixed and variable components are not and should not necessarily be reflective of the fixed and variable costs of the supplier.

As such, OUTA rejects the notion that the ratio between the fixed and variable components of Eskom's tariffs should reflect the ratio of 70/30 that Eskom claims to be appropriate and cost reflective.

The very definition of what is considered, in Eskom's one-sided terms, to be a fixed cost or a variable cost is vague and undefined. For example, does Eskom consider its coal costs procured under long-term take-or-pay contracts to be a fixed or variable costs? Does Eskom consider hourly paid worker and artisan remuneration to be fixed or variable costs, noting that such staff are employed on a permanent basis and Eskom is not in a position to reduce worker and artisan numbers and remuneration based on the volume (kWh) of electrical energy delivered?

Significantly increasing the fixed component of an electricity tariff as suggested by Eskom to secure the revenue of the electricity supplier come what may, and to shift normal business risks of the electricity supplier onto the customer, may have very serious negative affordability consequences for customers and the economy.

OUTA strongly recommends that NERSA should conduct a very careful study on global best-practice among electricity regulators and suppliers in respect of the ratio between fixed and variable components of electricity tariffs, and the implications thereof, before contemplating the significant changes proposed by Eskom.

OUTA therefore does not support or recommend any sudden or major changes in the current ratios between the fixed and variable components of its tariffs without further careful study and consideration.

SUMMARY OF OUTA'S RESPONSE AND RECOMMENDATIONS TO NERSA IN RESPECT OF ESKOM'S RTP APPLICATION

In summary, OUTA's response and recommendations to NERSA in respect of Eskom's RTP application are as follows:

- For all residential prepaid electricity customers, OUTA recommends a move to single-part tariffs with a flat-rate energy (kWh) component only and no fixed monthly component.

- For postpaid residential electricity customers, OUTA recommends the option of a two-part tariff with a fixed monthly component and a flat-rate energy (kWh) component.

- For postpaid residential electricity customers, OUTA recommends the option of a two-part tariff with a fixed monthly component and separate import/ export time-of-use energy (kWh) components.

- For postpaid residential electricity customers opting for the time-of-use tariff option, OUTA recommends that this option should be revenue neutral to Eskom, with no cost to the customer for changing the meter and should signal economic benefits (electricity cost savings) to those customers who effect voluntary changes in their consumption time habits, or who install small-scale embedded generation (solar PV and battery energy storage) systems.

- OUTA rejects any discriminatory application of a mandatory time-of-use tariff with higher fixed and lower variable components for residential customers with small-scale embedded generation systems.

- For postpaid commercial, agricultural and smaller manufacturing/ industrial electricity customers, OUTA recommends a three-part tariff with a fixed monthly component, separate import/export time-of-use energy (kWh) components, and a kVA demand component.

- For large industrial/ mining electricity customers, OUTA recommends a four-part tariff with a fixed monthly component, separate import/ export time-of-use energy (kWh) components, a reactive energy (kvarh) component, and a notified MW maximum demand component (with penalties for exceedance).

- OUTA recommends a thorough, independent review of the tariffs applicable to large, medium and smaller municipal electricity distributors, as their tariffs are considered to be outdated, inconsistent and structurally inappropriate for electricity distributors.

- OUTA recommends a thorough, independent review of the time-of-use, summer and winter, standard, peak and off-peak periods, tariff rates and structure applicable across all Eskom time-of-use tariffs, as these are considered to be outdated.

- OUTA rejects the notion that the ratio between the fixed and variable components of Eskom's tariffs should be reflect the fixed and variable cost structure of Eskom or should reflect a ratio of 70/30 that Eskom claims to be appropriate and cost reflective.

- OUTA recommends that NERSA should conduct a study on global best-practice among electricity regulators and suppliers in respect of the ratio between fixed and variable

components of electricity tariffs, and the implications thereof, before contemplating the significant changes proposed by Eskom.

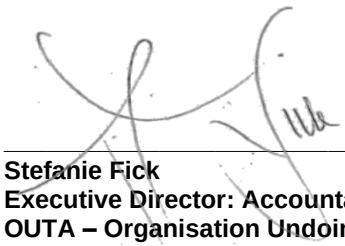
- OUTA does not support any sudden or major changes in the current ratios between fixed and variable components of its tariffs.

CONCLUSION

We trust that OUTA's comments in response to the call for public comments by NERSA will be considered and taken into account in its final determination in respect of Eskom's RTP commencing 1 April 2025, and OUTA commits to further engagements on this matter, if required.

OUTA again acknowledges and thanks Eskom and NERSA for the work and effort that has gone into the preparation of Eskom RTP and NERSA's associated consultation paper, and for the opportunity to comment and respond to these.

Yours sincerely



Stefanie Fick
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