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COMMENTS ON THE REVIEW OF THE APPROVED NOTIFIED MAXIMUM DEMAND (NMD) AND INCORPORATION OF MAXIMUM EXPORT CAPACITY (MEC) RULES

BACKGROUND

BUSA is a confederation of business organisations including chambers of commerce and industry, professional associations, corporate associations and unisectoral organisations. It represents South African business on macro-economic and high-level issues that affect it at the national and international levels. BUSA's function is to ensure that business plays a constructive role in the country's economic growth, development and transformation and to create an environment in which businesses of all sizes and in all sectors can thrive, expand and be competitive.

As a principal representative of business in South Africa, BUSA represents the views of its members in several national structures and bodies, both statutory and non-statutory. BUSA also represents businesses' interests in the National Economic Development and Labour Council (NEDLAC).

INTRODUCTION

BUSA welcomes the opportunity to comment on the review of the approved NMD and incorporation of the MEC rules Consultation Paper.

BUSA supports the review of the rules in light of new developments in the energy industry that have an impact on these rules, as noted:

- a) Small-Scale Embedded Generation (SSEG);
- b) Municipal Eskom Debt;
- c) Eskom's Rationalisation of Municipal Tariffs; and
- d) Cost of Supply.



Accordingly, BUSA has prepared short comments in response to the Stakeholder Comments in the Consultation Paper and looks forward to future engagement on this and the publication of revised rules following this review process.

GENERAL

As noted in the Introduction of the Consultation Paper, the current rules (2015) have been written solely for Eskom and consequently appear to favour the Utility and be prohibitive for other players. The rules may also not be able practically applicable in a situation where Eskom is not the supplier or owner of the grid.

Other developments that must be considered in the review include:

- Independent Power Producers selling to a Distributor other than Eskom, i.e. Municipal IPP supply agreements on a larger scale than SSEG; and
- Third-Party (wheeling) Arrangements

In accordance with the current rules, all Generators must pay charges to evacuate their power onto the [Eskom owned] grid as the Distributor of this power. However, it is understood that Eskom, as a Generator, currently pays no charges to Municipal Distributors, but has free access to Municipal grids. This disparity must be taken into account in the review of the rules in line with the provisions of the White Paper on Energy Policy (1998) which states that Government will encourage competition within energy markets, however, further noting that where opportunities for competition are currently limited, regulation is required to ensure equitable access for consumers and avoid the abuse of monopoly power. In this respect the White Paper also acknowledges NERSA's role in overseeing the introduction of competition into the sector.

In summary, the revised rules should apply to generic "Generators", "Distributors" or Grid Operators, and "Customers". They should also align to the framework, definitions and rules under development for IPP's, micro-grids, SSEG and Third-Party Arrangements etc.

COMMENTS

Stakeholder Comment #1

Stakeholders are invited to comment on whether customers that exceed or upgrade the NMD/MEC should be allowed to review their contracted NMD/MEC with Eskom even when their accounts are in arrears.

Customers should be allowed to review their contracted NMD/MEC and apply for a change even when their accounts are in arrears. The Consultation Paper states that a number of Municipalities have inappropriate NMDs; this can only exacerbate the significant problem of Municipal Indebtedness and add further penalties. It is proposed that though the application and change should be allowed, the change should only apply going forward and not retroactively, i.e. any penalties in arrears should stand.

Stakeholder Comment #2

Stakeholders are invited to comment on how far in advance customers should inform Eskom of the change of the NMD/MEC, and the indicative timeframe within which Eskom should consider the evaluation of the request for the change in NMD and/or MEC; and

Stakeholder Comment #3

Stakeholders are invited to comment on the time that Eskom should take when preparing the quote for the request to change the NMD and/or MEC.

This is difficult to comment without an understanding of the application review and approval process capacity required for both the Customer and Distributor. It is further assumed that the quotation forms part of the change request application review and approval process and accordingly, this should be built into the overall timeframes.

It is therefore recommended that clarity is sought on the full process and capacity requirements. In principle, timeframes for all steps for all parties in the application review and approval should be specified in the rules.

Stakeholder Comment #4

Stakeholders are invited to comment on whether Eskom should continue to charge customers that exceed the contracted NMD even though they have applied for an upgrade from Eskom, or in cases where Eskom has delayed the upgrade.

If a change application has been lodged, the charges on exceedance should be suspended pending the outcome of the application. It is therefore important that a step and timeframes requiring acknowledgement of receipt of the application is included in the process to be specified. Any penalty incurred prior to the application should stand.

Stakeholder Comment #5

Stakeholders are invited to comment on whether Eskom should allow temporary NMD and/or MEC increases for seasonal variations, especially for renewable energy based on generation that is affected by seasonal patterns.

It is understood that NMD and MEC form part of planning for the System Operator, however this needs to be confirmed. In this context, it should also be confirmed if there are technical constraints for allowing seasonal variations. If the prohibition cannot be technically or rationally motivated, it should be removed, and variations allowed.

Stakeholder Comment #6

Stakeholders are invited to comment on the quotes proposed by Eskom, the connection charges and on whether it is necessary for a new supply agreement or an amended agreement to be concluded between Eskom and the customer.

If the change results in a change to any terms in a current supply agreement, then the agreement should be properly amended, but not necessary require a new supply agreement.

Stakeholder Comment #7



Stakeholders are invited to comment on whether customers should be allowed to exceed the 5% deadband throughout the 12 months instead of twice as required by Eskom in order to minimise the impact of the penalty imposed by Eskom.

This seems heavily punitive. Clarity is sought on the rationale for this current requirement. If it cannot be rationally or technically motivated, it should be revised. However, it is accepted that repeated exceedances of the deadband would indicate a problem. It is therefore proposed that the revision includes a threshold/number of exceedances that would trigger an application for change.

Stakeholder Comment #8

Stakeholders are invited to comment on whether NERSA should review the NMD methodology used to calculate the NMD penalty;

Stakeholder Comment #9

Stakeholders are invited to comment on under which circumstances the benefit of diversity should be allowed; and

Stakeholder Comment #10

Stakeholders are invited to comment on whether NERSA should review the methodology used by Eskom to calculate all PODs receiving a diversity benefit that exceeds the sum of the NMDs of the same PODs.

In all cases a review of the methodology and circumstances are supported to ensure applicability to a generic Distribution System to ensure there is no abuse of monopoly power in the interpretation and application of these rules.

Stakeholder Comment #11

Stakeholders are invited to comment on whether Eskom should clarify the meaning of 'customer' in the above definition, as well as on whether the definition includes Independent Power Producers (IPPs).

In line with the General Comments above, the revised rules should apply to generic "Generators", "Distributors" or Grid Operators, and "Customers". And IPP would be a Generator rather than a Customer. Eskom would be the Distributor in this case, but in others may be the Generator.

Stakeholder Comment #12

Stakeholders are invited to comment on the impact of NMD and MEC rules on the new developments in the energy industry.

The current rules are written in favour of Eskom, or at least without consideration of other Distributors or grids. The energy industry is already changing and will continue to change and diversify, it is therefore important that any policy, legislation, regulations or rules are generically applicable and regularly reviewed to keep pace with this change.



CONCLUSION

BUSA again thanks NERSA for the opportunity to comment on the Review of the Approved Notified Maximum Demand (NMD) and the Incorporation of the Maximum Export Capacity (MEC) Rules. BUSA looks forward to further engagement with NERSA on the review.