

CIRCULAR 15 / 2024

FROM : CHIEF EXECUTIVE OFFICER

TO : MUNICIPAL MANAGERS

**INFRASTRUCTURE/TECHNICAL DIRECTORS/MANAGERS/ HEADS OF
ELECTRICITY/ CHIEF FINANCIAL OFFICERS**

DATE : 02 JULY 2024

**URGENT NOTICE TO MUNICIPALITIES ON THE IMPLEMENTATION OF THE
2024/25 ELECTRICITY TARIFFS**

On 5 June 2024, AfriForum brought an urgent application in the Gauteng Division of the High Court of South Africa, Pretoria for an order declaring as unlawful, invalid and of no force and effect NERSA's policy and process to approve municipal electricity tariffs.

SALGA opposed Afriforum's application and contended that if the relief sought by Afriforum were to be granted, the Court should grant an order which is just and equitable in terms of which NERSA is directed to consider approving the electricity tariffs which were approved by municipal councils when they approved their 2024/2025 financial year budgets in terms of section 24 of the Local Government: Municipal Finance Management Act 56 of 2003. SALGA's contention was based on, amongst others, the fact that the tariffs approved by municipal councils were designed having considered the tariffs at which municipalities will purchase bulk electricity from Eskom and that such tariffs would, at the very least, enable municipalities to recover the cost at which they procure bulk electricity from Eskom and related costs of performing the function.

On 28 June 2024, the High Court granted an order in terms of which:

1. NERSA's mechanism for approval of municipal electricity tariffs as set out in its *Notice to Municipal Licensed Electricity Distributors* dated 29 January 2024 is declared unlawful, invalid and of no force and effect.
2. No municipality shall be entitled to levy increased electricity tariffs upon end-user consumers until

such time as NERSA has granted an approval of an application in accordance with NERSA's *Notice to Municipal Licensed Electricity Distributors* dated 17 November 2023.

3. Any municipality for whom NERSA has not granted approval of an application for increased tariffs supported by a cost of supply study in accordance with the *Notice to Municipal Licensed Electricity Distributors* dated 17 November 2023 shall be entitled to continue levying electricity tariffs on the same tariff as that applicable during the 2023/2024 municipal financial year.
4. Municipalities shall be permitted to supplement their applications for increased electricity tariff to NERSA with cost of supply studies for NERSA's consideration and were granted 60 days from the date of the order to supplement their electricity tariff applications with cost of supply studies in accordance with the NERSA's *Notice to Municipal Licensed Electricity Distributors* dated 17 November 2023.

The practical implications of the order granted by the High Court is, simply put, that:

1. Municipalities that **HAVE NOT** supported their applications for new electricity tariffs **with a cost of supply study ARE NOT** entitled to charge their end-user customers increased tariffs until such time that NERSA has granted them approval based on cost of supply studies.
2. Municipalities **ARE NOT** entitled to charge their end-user customers the electricity tariffs approved as part of their 2024/2025 financial budget if such tariffs **have not been approved by NERSA based on cost of supply studies.**

Following legal advice and an assessment of the negative impact of the court order, in its current form, SALGA has elected to file an application for leave to appeal against the order granted by the High Court the relevant terms of which are stated above. We are duly informed that NERSA has likewise elected, albeit for different reasons, to appeal the order granted by the High Court.

The effect of the filing of the applications for leave to appeal is that the implementation of the High Court order is suspended pending the final determination of the application for leave to appeal and related appeal processes.

SALGA is aware of NERSA's media statement in terms of which municipalities are informed of the approval of all applications for electricity tariffs for the 2024/2025 financial year. SALGA has requested NERSA to provide full details these approvals. Further updates will be provided as soon as NERSA's

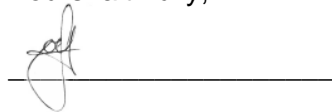
Enquiries: Nhlanhla Ngidi
Tel : 012 369 8000
Fax : 012 369 8001
E-mail: nngidi@salga.org.za

response is received.

SALGA would like to encourage those municipalities that have not conducted cost of supply studies to urgently commence the process, irrespective of the possible suspension of the court order due to the appeal.

We look forward to the cooperation of municipalities and will provide further updates as and when necessary.

Yours faithfully,



LANCE JOEL

CHIEF EXECUTIVE OFFICER (ACTING)