

Nersa notes Eskom court judgment

The National Energy Regulator of South Africa (Nersa) is studying the judgment of the High Court to review and set aside its decision on Eskom's fourth Multi-Year Price Determination (MYPD4) for the 2019/20, 2020/21 and 2021/22 financial years.



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“The judgment follows Nersa's acknowledgment of procedural unfairness in the MYPD4 decision concerning the inclusion of the R23 billion government grant without allowing Eskom to submit its representation, in line with the National Energy Regulator Act, 2004 (Act No. 40 of 2004), read with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000),” said the regulator.

Judgment in the matter was delivered on Tuesday.

Nersa has noted with serious concern that the judgment has gone beyond its acknowledgment of procedural unfairness, and the unsuccessful consultations between Nersa and Eskom by pronouncing on the MYPD4 tariff application.

“The judgment, if left uncontested, will not only disrupt the industry, but will further suppress economic recovery, considering the current threat that the country’s economy is facing. This case was not merely a case between Eskom and Nersa, but rather a case of Eskom versus the South African economy and electricity consumers,” said the regulator.

The energy regulator is currently studying the judgment and will advise on the way forward in due course.

Meanwhile, Eskom welcomed the court’s decision, which allows for a phased recovery of the R69 billion equity injections over a three-year period.

“The judgment that has been delivered is very encouraging. It aids in instilling confidence in the regulatory regime within the country by ensuring that the Nersa methodology is adhered to. This judgment will assist Eskom in paving the way forward towards financial sustainability,” said Eskom’s Chief Financial Officer, Calib Cassim.

The power utility said prior to the court hearing, Nersa was in agreement that the deduction of the equity injection was not correct, in terms of its MYPD methodology.

“The Judge was required only to make a decision on the recovery of the equity. Eskom welcomes this decision, which allows for Eskom to migrate towards a situation where it could become more self-sufficient and be in a position to recover efficient costs and reduce its dependence for further equity support from government,” said the power utility.

Supporting the vulnerable

It is understood that certain vulnerable sectors of the economy – poor residential customers and certain industrial sectors - will require special consideration.

“Various measures are already in place to protect the poor. In addition, Eskom has been participating, under the leadership of the Department of Mineral Resources and Energy (DMRE), in proposals where certain vulnerable economic sectors would be considered for targeted support,” it said.

The utility will work with Nersa in implementing the outcome of the court decision.

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