



# Eskom RCA applications 2018

Mornè Mostert | May 2018



# Eskom RCA applications

## AFRIFORUM

- AfriForum NPC (a non-profit company) registered in South Africa with, among other aims, constructive participation in matters of Government, such as the making of submissions regarding applications for revenue by Eskom on behalf of its members and in the public's interest).
- AfriForum has been active in the energy industry for various years by making submissions regarding applications for electricity price increases on Local Government level, as well as participating in various public hearings in this regard held by NERSA.
- Has more than 200 000 members and 100 branches across South Africa that actively take part in service delivery issues including electricity supply.

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## BASIC PRINCIPLES

- Eskom as company has an obligation not only to generate power but to do it in such a way that it is effective, affordable and prudent. ESKOM has a further obligation to only incur lawful operational and capital expenditure in execution of its licensed activities;
- Eskom is a profit generating company.
- NERSA is juristic person that has the authority to regulate the monopoly on electricity.
- NERSA has the authority to consider Eskom's' RCA applications with input of the stakeholders, communities, organisations, etc.
- RCA- Risk management device. It should be a remedy to Eskom or the consumer when the assumptions that was used during the tariff proses be corrected.
- The RCA process has a large focus on prudence in terms of the MYPD methodology

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## BASIC PRINCIPLES

- AfriForum believes that prudent decision-making goes further than pure lawful decisions. Its is a higher bar to pass.
- There are various instances in which a prima facie case of unlawfully incurred primary energy costs, operational and other imprudent expenditure has been incurred;
- The imprudent costs/ expenditure should therefore be excluded from the calculation of the balance of the RCA' as mentioned in Eskom's application;

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## PRIMARY ENERGY, OPERATIONAL AND OTHER IMPRUDENT COSTS

- The unlawful prepayment of R659 million made by ESKOM to Tegeta Exploration (Pty) Ltd (“Tegeta”);
- The unlawful reduction of the contractual penalty inherited by Tegeta through the purchase of Optimum Coal;
- The unlawful payment of a long term executive bonus to all the executives, alternatively of the R711 000.00 bonus to Matshelo Koko, the suspended acting Chief Executive Officer (“CEO”) and former head of generation at ESKOM;
- The unlawful payment of R1.6 billion to McKinsey and Trillian Capital in terms of a void contract that was entered into in contravention of the PFMA;
- The unlawful payments made to Impulse International, who was appointed contrary to the PFMA and Companies Act;
- The cost overruns on Medupi, Kusile and Ingula Power stations that can be attributed to irregular, unauthorised, wasteful and fruitless expenditure (in contravention of the PFMA);

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## PRIMARY ENERGY, OPERATIONAL AND OTHER IMPRUDENT COSTS

- Primary energy costs escalated from R18bn in 2007 to more than R82 billion in 2017.
- Staff component of Eskom has escalated from 32600 (2007) to 47 978. (31 March 2016)
- Staff component has certain fixed costs that are not connected to sales volumes of Eskom. This is not controllable.
- A World Bank study in 2016 found that South African utilities pay workers more than double the norm in 35 other countries on the continent, with staff costs coming in at an average \$61,000 (R750 000) per employee per year.
- Eskom is potentially overstaffed by 66 percent, in terms of the abovementioned report.
- Staff costs also increased faster than consumer price inflation, which rose 84 percent over the 10-year period, while Eskom's power capacity was 0.72 megavolt amps per employee, according to data in its latest annual report.
- [Businessstech.co.za](http://Businessstech.co.za)

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## AFRIFORUM STRATEGY

- The submission made by AfriForum forms part of a longer-term strategy to constructively participate in matters relating to energy affairs, by among other doing the following:
  - Demanding more transparency from Eskom, NERSA, the Department of Energy and the Department of Public Enterprises, through the use of various legislated mechanisms and forums, such as the Promotion of Access to Information Act, 2000 (Act No 2 of 2000), the Human Rights Commission, as well as the NERSA and other criminal and civil procedures;
  - Investigating and challenging corruption and maladministration within Eskom through exposure and litigious as well as non-litigious avenues; and
  - What can be crystallized from the above sections is that NERSA has a duty to ensure that decisions made by the regulator, when regulating applications for electricity tariffs, have been made in a manner so that the foreseeable effects of the decision serves the objects of the ERA and is within powers and in accordance with the duties of NERSA as a regulator as well as the individual members, as set out in ERA.

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## CONCLUSION

- This submission aims to ensure that imprudent costs/expenditure incurred by Eskom is not passed on to consumers by way of these RCA application.
- That NERSA fulfils its mandate by regulating the management of energy and its tariffs by using mechanisms and remedies at its disposal to ensure efficient, economic and effective use of resources, as set out in the Constitution.
- Advocating for the efficient, effective and prudent decentralisation of generation, distribution and transmission activities from Eskom to independent power producers, distributors and transmitters