

NATIONAL ELECTRICITY REGULATOR

TEMPORARY DISTRIBUTION LICENCE

issued to

MALUTI a PHOFUNG MUNICIPALITY

NER/D/FS194

1. DEFINITIONS AND INTERPRETATION

In this licence, words and phrases shall have the meaning ascribed to them in the definition section of the Electricity Act, 1987 (Act No. 41 of 1987) (hereinafter referred to as the Act).

2. GRANT OF LICENCE

The National Electricity Regulator, in exercise of the powers conferred by section 6 of the Act, hereby licenses MALUTI a PHOFUNG MUNICIPALITY to distribute and supply electricity to all consumers of electricity within the area designated in schedule 1 below, subject to the conditions set out in this licence and the Act.

3. TERM OF LICENCE

This licence shall come in force on 1 July 2001 until 30 June 2006 subject the establishment of the proposed Regional Electricity Distributors.

4. DUTIES OF LICENSEE

4.1 The licensee shall supply electricity within the area of supply mentioned in schedule 1 below to every applicant who is in a position to make satisfactory arrangements for payment thereof.

4.2 Where the licensee is undertaking an electrification programme which has been approved in terms of the Integrated National Electrification Programme (INEP), and the programme sets out the approximate dates on which potential consumers will receive their electricity supply, the licensee shall supply electricity to such potential consumers in accordance with the approved electrification plan.

5. CONDITIONS OF LICENCE

The licensee shall be bound by the following conditions to this licence:

5.1. LEGAL CONDITIONS

- 5.1.1 The licensee shall supply electricity within the area of supply mentioned in schedule 1 below to every applicant who is in a position to make satisfactory arrangements for payment thereof.
- 5.1.2 The licensee shall not reduce or discontinue the supply of electricity to a consumer unless -
- (i) the consumer is insolvent ; or
 - (ii) the consumer has failed to pay the agreed charges or to comply with the conditions of supply and has failed to remedy the default within 14 days after receiving from the licensee a written notice by post calling upon him to do so.
- 5.1.3 Where the licensee is undertaking an electrification programme which has been approved based on a one year fixed and three year rolling programme in terms of the Integrated National Electrification Programme the licensee's programme shall set out the approximate dates on which potential consumers will receive their electricity supply, the licensee shall supply electricity to such potential consumers in accordance with the approved electrification plan.
- 5.1.4 The National Electricity Regulator shall be entitled to settle disputes between the licensee and another supplier, or between the licensee and its consumers or prospective consumers regarding -
- i. the right to supply;
 - ii. the quality of such supply and the provision of services in connection therewith;
 - iii. the condition on and prices at which electricity is supplied;
 - iv. the installation and functioning of meters;
 - v. the suitability of the equipment of the licensee;
 - vi. delays in or refusal to supply by the licensee;
 - vii. any other matter in respect of which the licensee or its consumers requests the National Electricity Regulator to act as mediator.
- 5.1.5 Any decision of the regulator on a dispute as contemplated in 5.1.4 above is binding on the parties to the dispute.
- 5.1.6 This licence is not transferable without the approval of the National Electricity Regulator.

5.2 FINANCIAL CONDITIONS

5.2.1 The licensee shall maintain separate electricity distribution business affairs from the licensee's other affairs so that the revenues; cost; assets; liabilities; reserves and provisions for the electricity business are separately identifiable in the books of the licensee from those of any other business.

5.2.2 The licensee shall prepare on a consistent basis from such accounting records in respect of the financial year of the licensee, and each subsequent financial year, accounting statements comprising -

- i. an income statement;
- ii. a balance sheet.

together with notes thereto, and in appropriate detail the amounts of any revenue, cost, asset, liability, reserve or provision which has been charged from or to any other business together with a description thereof.

5.2.3. The licensee shall annually submit audited copies of such accounting statements to the National Electricity Regulator within 180 days of the end of the licensee's financial year. This shall include an asset register, purchase value and current value.

5.2.4. The National Electricity Regulator shall determine the prices at which the licensee shall supply electricity to its consumers.

5.2.5. The licensee is not permitted to charge any consumers with other tariffs than those specified in the schedule of approved tariffs set out in schedule 2 hereto, as revised from time to time, without the approval of the National Electricity Regulator.

5.2.6. The licensee shall pay the bulk supplier from whom it purchases its electricity.

5.2.7. Ensure that monies allocated for statutory National Electricity Regulator purposes in the licensee's budget are utilised for such purposes.

5.2.8. Ensure that electricity tariffs increases are promulgated through appropriate media.

5.3 TECHNICAL CONDITIONS

5.3.1 The licensee shall supply electricity to its consumers in compliance with quality standards/criteria as the National Electricity Regulator may from time to time prescribe. Currently such applicable standards are, NRS 048 and NRS 047.

- 5.3.2 Prepare and adhere to plans, which protect customers and ensure the effectiveness of the industry such as:
- i. Maintenance Schedules;
 - ii Standards of Service (NRS 047) and Quality (NRS 048);
 - iii enquiries and complaints management;
 - iv license compliance management;
 - v consumer/public and staff safety/education; and
 - vi system losses reduction.
- 5.3.3 Explore demand management strategies before augmenting or expanding a distribution system.
- 5.3.4 Ensure that metering, billing and revenue collection are effective, efficient and accurate.

5.4 GENERAL CONDITIONS

- 5.4.1 The National Electricity Regulator shall be entitled to collect such information from the licensee or its consumers as it deems necessary.
- 5.4.2. The licensee shall supply the NER on a quarterly basis with new electrification connections completed during the previous three months, starting in April of each year.
- 5.4.3. The National Electricity Regulator, or any person authorised by it in writing, may enter upon premises of the licensee and inspect any plant, machinery, books, accounts and other documents found there.
- 5.4.4. The National Electricity Regulator may call upon the licensee to furnish to it such periodical or other returns in such form as the National Electricity Regulator may from time to time prescribe, and such particulars in respect of the undertaking as the National Electricity Regulator may from time to time demand.

6. FAILURE OF LICENSEE TO MEET OBLIGATIONS IN TERMS OF THIS LICENSE

- 6.1 If any licensee fails to meet his obligations in terms of this license, the National Electricity Regulator may serve upon him by post a notice in writing to meet those obligations within 30 days or such longer period as the Regulator may determine, and if the licensee fails to comply with the requirements of the notice-
- i. it shall be guilty of an offence and upon conviction be punishable as provided for in the Act;

- ii. the Regulator may recommend to the Minister to authorise an appropriate undertaker to enter upon and take possession of the undertaking of the licensee;
- iii. the Regulator may withdraw the licence at any time.

7. MODIFICATION OF LICENCE

The conditions of this licence may be modified by the National Electricity Regulator -

- i. with the agreement of the licensee ; or
- ii. failing such agreement, after 30 days due notice has been given to the licensee by the National Electricity Regulator and after consideration of any representation or objections.

8. REVOCATION OF LICENCE

- 8.1 The National Electricity Regulator may at any time agree with the licensee that this licence should be revoked, in which case the term of the licence ends on the day agreed.
- 8.2 The National Electricity Regulator may at any time give 30 days notice of revocation to the licensee if the licensee does not comply with any of its duties and obligations, and the Minister determines that it is necessary or desirable to revoke this licence, in which case the term of this licence ends on the expiration of the period of the notice. The term of this licence does not end at the expiration of the period of a notice of revocation given under this paragraph if, before the expiration, the licensee complies with its duties or obligations.

SIGNED:

Chief Executive Officer

DATE:

SCHEDULES

SCHEDULE 1 Supply Area

The municipal area of MALUTI a PHOFUNG. Customers being supplied by Eskom or any other Licensed Distributor at the date of commencement of this licence are excluded from this licence.

List of Supply Areas

The areas in this licence are as follows:

Harrismith TLC
Kestell TLC
Phuthaditjhaba TLC
Qwa Qwa RLC



Enquiries: Kabelo Mothobi
Direct Tel: 012-4014621
Ref No.: NER/D/FS194
Date: 31 May 2006

Municipal Manager
Maluti a Phofung Municipality
Private Bag 805
WITSIESHOEK
9870

Tel: 0587183795
Fax: 0587130812

Dear Sir/Madam

EXTENSION OF THE TEMPORARY ELECTRICITY DISTRIBUTION LICENCE

As your temporary distribution licence will be expiring at the end of June 2006, the NER Board at its meeting of 28 March 2006 decided to extend the term of your licence for a period of one (1) year, i.e. from 1 July 2006 until 30 June 2007. During this extension period, the Regulator will review the performance of all distribution licensees in order to act on matters of non-performance, which will influence the extension of the licence for a further period.

The extension of the temporary distribution licence is subject to the new legislation dealing with the distribution industry restructuring and electricity regulation that may become effective during the period 1 July 2006 and 30 June 2007.

We enclose a Distribution Licence Conditions Assessment Schedule for you to complete. Ensure that all fields are completed and returned to the Regulator before the 15 June 2006. Your response will also serve to confirm that you are the distributor in the licensed area of supply.

Should you require any further information or have queries, please do not hesitate to contact Kabelo Mothobi on telephone number (012) 401-4600/4621.

Yours sincerely


Smunda S Mokoena
Chief Executive Officer

Enclosed.

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Board Members

Mr. C Matjila
(Chairperson)
Dr X H Mkhwanazi
(CEO)
Ms N Magubane
Mr. OT Mlaba
Mr. S Ntshaluba
Mr. MA Rossouw
Adv D Singh

Date: 20 June 2007

Municipal Manager
Maluti a Phofung
Private Bag 805
WITSIESHOEK
9870

Tel: 0587183795
Fax: 0587130812

Dear Sir/Madam

EXTENSION OF THE TEMPORARY ELECTRICITY DISTRIBUTION LICENCE

The National Energy Regulator of South Africa (NERSA) at its meeting of the 25 April 2007 took a decision to extend your temporary distribution licence.

In accordance with section 10 (1) of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) which states "*Every decision of the Energy Regulator must be in writing and be taken with a procedurally fair process in which affected persons have the opportunity to submit their views and present relevant facts and evidence to the Energy Regulator*", a public hearing was held on 19 April 2007.

Considering the presentations at the hearing and the deliberations of the subcommittee, the Energy Regulator took a decision to amend clause 3 ("Term of the Licence") of your temporary distribution licence to read as follows:

"This licence shall come into force as from 1 July 2007 and expire 36 months after the promulgation of the relevant licensing regulations made under the Electricity Regulation Act, 2006 (Act No. 4 of 2006) as amended and subject to the provisions of the Act"

Please update your records accordingly by attaching the original of this letter to the licence issued to you in June 2006.

Should you require any further information or have queries please do not hesitate to contact Mr Mbulelo Ncetezo on telephone number 012-4014616.

Yours sincerely


Smunda S. Mokoena
CHIEF EXECUTIVE OFFICER