

# NATIONAL ENERGY REGULATOR of SOUTH AFRICA

## TEMPORARY DISTRIBUTION LICENCE

issued to

**CITY POWER (JOHANNESBURG)  
(PTY) LTD**

**NER/D/JHB**

### 1. PREAMBLE

The existing distribution licence was issued in terms of the Electricity Act, 1987 (Act No. 41 of 1987) (Electricity Act).

Section 48 (3) of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) provides that all licences issued in terms of the Electricity Act are deemed to be issued in terms of the of Electricity Regulation Act, 2006 continue in force as if they had been issued in terms of the ERA.

City Power applied for an amendment of its existing distribution licence in terms of section 17 of Electricity Regulation Act, 2006 (Act No. 4 of 2006) (ERA) to include Lawley Extensions 2 and 3.

The City Power distribution licence is hereby amended as follows:

- The Electricity Act is hereby replace by the ERA
- All references to the National Electricity Regulator are replaced by the National Energy Regulator of South Africa.
- Lawley Extensions 2 and 3 are hereby included in City Power's list of supply areas

The National Energy Regulator of South Africa hereby issues the above amendments to City Power's distribution licence

### 2. DEFINITIONS AND INTERPRETATION

In this licence, words and phrases shall have the meaning ascribed to them in the definition section of the Electricity Regulation Act, 2006. (No. 4 of 2006) (hereinafter referred to as the "Act").

### **3. GRANT OF LICENCE**

The National Energy Regulator of South Africa, exercising the powers conferred by section 4 of the Act, hereby licenses **City Power (Johannesburg) (Pty) Ltd** 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.

### **4. TERM OF LICENCE**

This licence shall come into force on 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.

### **5. DUTIES OF LICENSEE**

5.1 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.

5.2 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.

5.3 The Licensee shall, on each occasion that the Licensee is faced with a decision in relation to the Power Purchase Agreement (entered into between the Licensee and AES Kelvin Power (Pty) Ltd in respect of the Kelvin Power Station), take the approach most consistent with an economic purchasing obligation, and the avoidance of stranded costs.

### **6. CONDITIONS OF LICENCE**

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

#### **6.1 LEGAL CONDITIONS**

6.1.1 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.

- 6.1.2 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.
- 6.1.3 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.
- 6.1.4 The National Energy Regulator of South Africa 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 Energy Regulator of South Africa to act as mediator.
- 6.1.5 Any decision of the regulator on a dispute as contemplated in 5.1.4 above is binding on the parties to the dispute.
- 6.1.6 This licence is not transferable without the approval of the National Energy Regulator of South Africa.

## 6.2 **FINANCIAL CONDITIONS**

- 6.2.1 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.
- 6.2.2. 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.

- 6.2.3. The licensee shall annually submit audited copies of such accounting statements to the National Energy Regulator of South Africa within 180 days of the end of the licensee's financial year. This shall include an asset register, purchase value and current value.
- 6.2.4. The National Energy Regulator of South Africa shall determine the prices at which the licensee shall supply electricity to its consumers.
- 6.2.5. 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 Energy Regulator of South Africa.
- 6.2.6. The licensee shall pay the bulk supplier from whom it purchases its electricity.
- 6.2.7. Ensure that monies allocated for statutory National Energy Regulator of South Africa purposes in the licensee's budget are utilised for such purposes.
- 6.2.8. Ensure that electricity tariffs increases are promulgated through appropriate media.

### **6.3. TECHNICAL CONDITIONS**

- 6.3.1. The licensee shall supply electricity to its consumers in compliance with quality standards/criteria as the National Energy Regulator of South Africa may from time to time prescribe such as:
  - i. Maintenance Schedules;
  - ii. Code of Practice for electricity metering NRS 057; and
  - iii. Standards of Service (NRS 047) and Quality (NRS 048);
- 6.3.2. 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.

6.3.3. Explore demand management strategies before augmenting or expanding a distribution system.

6.3.4. Ensure that metering, billing and revenue collection are effective, efficient and accurate.

#### **6.4. GENERAL CONDITIONS**

6.4.1. The National Energy Regulator of South Africa shall be entitled to collect such information from the licensee or its consumers as it deems necessary.

6.4.2. The licensee shall supply National Energy Regulator of South Africa on a quarterly basis with new electrification connections completed during the previous three months, starting in April of each year.

6.4.3. The National Energy Regulator of South Africa, 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.

6.4.4. The National Energy Regulator of South Africa may call upon the licensee to furnish to it such periodical or other returns in such form as the National Energy Regulator of South Africa may from time to time prescribe, and such particulars in respect of the undertaking as the National Energy Regulator of South Africa may from time to time demand.

#### **7. FAILURE OF LICENSEE TO MEET OBLIGATIONS IN TERMS OF THIS LICENCE**

7.1 If any licensee fails to meet his obligations in terms of this license, the National Energy Regulator of South Africa 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.

## 8. MODIFICATION OF LICENCE


The conditions of this licence may be modified by the National Energy Regulator of South Africa -

- 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 Energy Regulator of South Africa and after consideration of any representation or objections.

## 9. REVOCATION OF LICENCE

- 9.1 The National Energy Regulator of South Africa 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.
- 9.2 The National Energy Regulator of South Africa 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:**

  
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Chief Executive Officer

**DATE:**

10 October 2007

# SCHEDULES

## SCHEDULE 1 Supply Area

The municipal area of CITY POWER (JOHANNESBURG) (PTY) LTD. 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:

Eastern Johannesburg MLC  
Modderfontein MLC  
Midrand/Rabie Ridge  
Northern Johannesburg MLC  
Southern Johannesburg MLC  
Western Johannesburg MLC  
Lehae Township  
Lawley Extension 2 and 3

## SCHEDULE 2 Tariffs and Prices

As approved by the National Energy Regulator.

## SCHEDULE 3 Amendments

Item No.	Amendment	Date of Approval
1.	First issue to Johannesburg Metropolitan Council	August 1995
2	Transfer of Licence form Greater Johannesburg Metropolitan Council to City Power (Johannesburg) (Pty) Ltd	December 2000
3	Accommodation of re-determination of cross boundary municipalities	June 2001
4	Extension of licence validity period until 30 June 2007	May 2006
5	Extension of licence validity period until 36 month after the promulgation of the relevant licensing regulations made under the ERA.	June 2007