

**GAZETTE No.**

No. R.

**ELECTRICITY ACT, 2007 (ACT No. 3 of 2007)  
ELECTRICITY LICENCING BYLAWS**

The Energy Regulatory Authority, established under the Energy Regulatory Authority Act, 2007, acting in terms of section 21(3) of the Electricity Act, 2007 (Act No. 3 of 2007), hereby –

- (a) make the bylaws set out in the Schedule;
  
- (b) determine that the said bylaw shall come into effect on the date of publication hereof.

\_\_\_\_\_  
Chairperson  
Energy Regulatory Authority  
Date: \_\_\_\_\_

## SCHEDULE

### Definitions

1. In these bylaws, unless the context otherwise indicates, a word or expression defined in the Act has the same meaning, and -

“Authority” means the Energy Regulatory Authority established under the Electricity Authority Act, 2007;

“bylaw” means these bylaws, as amended from time to time;

“dispute” means a dispute between licensees, or between a licensee and a consumer;

“exemption” means an exemption to apply for or hold a licence;

“Fee Regulations” means the regulations made by the Minister on the fees payable by an applicant for or the holder of a licence issued or deemed to have been issued under the Act;

“licence” means a generation, transmission, system operation, distribution, supply, import or export licence;

“mediation” means mediation proceedings contemplated in section 40(2) of the Act;

“nationality” means the nationality of an applicant or person objecting to the issue of a licence;

“NRS 047-1 and NRS 048-2” means the NRS standards published by the South African Bureau of Standards relating to the service standards and quality of electricity supply to be maintained by licensees;

“off grid and mini-grid supply scheme” means an off-grid or min-grid supply scheme contemplated in section 67(1)(j) of the Act;

“own use” means a person who generates, transmits or distributes electricity for his or her exclusive own use at one site or a site contiguous thereto;

“party” means a party to a dispute;

“regulated tariff” means a regulated tariff as contemplated in section 32(1) of the Act, and includes any rate, charge or fee subject to tariff regulation;

“re-seller” means a person who obtains a supply of electricity from a licensed supplier and on-sells less than 1GWh of that electricity per annum to an end consumer of that electricity;

“tariff methodology” means a tariff methodology approved by the Authority in terms of section 32(4) to (10) of the Act;

“the Act” means the Electricity Act, 2007 (Act No. 3 of 2007); and

“Tribunal” means the electricity disputes tribunal as defined in the Act.

## **PART ONE: LICENCE APPLICATION PROCEDURE**

### **Application for licence**

2.(1) An application for the issue, renewal, amendment , transfer or revocation of a licence shall be made in the form determined by the Authority and shall be accompanied by the appropriate licence application fee imposed under the Fee Regulations, which fee is non-refundable.

(2) At the least the following information, in so far as it is applicable to an application, shall be included in an application contemplated in subsection (1) –

- (a) a description of the applicant, including vertical and horizontal relationships with other persons engaged in generation, transmission, distribution or supply activities, or the import or export of electricity;
- (b) the physical and postal address of the applicant, provided that in the case of an application for a transfer of a licence, this information must be provided with regard to both the licensee and the proposed transferee;
- (c) the type of application, namely an application for the issue, renewal, amendment, transfer or revocation of a licence;
- (d) a description of the proposed generation, transmission or distribution facility to be constructed or operated or the proposed service in relation to electricity to be provided, including maps and diagrams where appropriate;
- (e) a general description of the type of customer to be served;
- (f) in the event that the applicant will be performing activities subject to tariff regulation, a detailed list of the tariffs to be applied;
- (g) the plans and the ability of the applicant to comply with applicable labour, health, safety and environmental legislation, grid codes or standards applicable ;
- (h) a detailed specification of the services that will be rendered under the licence;
- (i) an outline of the intended operational and business plan of the applicant, including an estimate of the expected income and expenditure

of the relevant undertaking to be carried on by the applicant under the licence during the licence period, or such shorter period as the Authority may determine;

(j) a copy of the advertisement referred to in section 3; and

(k) such other particulars the Authority may require in general or in the case of a particular type of or particular licence, or as may be required in terms of the Act or any regulations or by-laws made there under.

(3) When considering an application, the Authority may request an applicant to -

(a) submit to the Authority such additional or complimentary information as the Authority may require in order to properly consider such application and rule thereon;

(b) re-consider its proposal and present alternative proposals in conformance with such terms as the Authority may direct.

### **Advertising**

3(1) An applicant applying for the issue, amendment, transfer or revocation of a licence must advertise the application in a format approved of by the Authority.

(2) An advertisement referred to in subsection (1) must be published –

(a) in at least one national newspaper circulating in the area where the licensed activities will be performed; and

(b) at least twice a week for two consecutive weeks.

(3) The advertisement must –

(a) provide a brief summary of the activity to be performed, by whom it will be performed and over what period of time, or in the case of a cessation of activities, when the licensee will cease activities;

(b) specify that any interested person may provide comment on or object to issue of the licence to the Authority in writing within 30 days of such publication;

(c) specify or reference the information required in terms of section 2 and indicate clearly the physical address and/or website where such complete information can be obtained and/or inspected during normal business hours by any interested person.

(4) The applicant must together with its application form submit a copy of the newspaper in which the application was advertised to the Authority as proof that such application has been advertised.

## **Objections**

4(1) Any person desiring to object against an application advertised in terms of section 3 may, within 30 days from the date of publication of an advertisement, comment on or lodge a written objection against such application with the Authority.

(2) Objections must include at least the following information --

(a) the name, nationality and identity number of the person objecting, or, in the case of a body corporate, the country of registration and its registration number, or, in the case of an authority created by law, the name of such authority, as well as the postal and physical address of the person objecting;

(b) a copy of the newspaper editions in which the advertisement was placed;

(c) the nature of the interest entertained by the person objecting; and

(d) detailed substantiated reasons for the objections.

(3) The Authority must provide the applicant to whom the objection relates with a complete copy of the objection within seven days of such objection being lodged with the Authority.

(4) The Authority must afford the licence applicant at least 14 days after receipt of any objections to respond thereto to the Authority in writing.

### **Consideration of licence applications**

5(1) The Authority must consider an application for the issue, renewal, transfer or revocation of a licence within 120 days from the publication of an advertisement contemplated in section 3.

(2) The Authority may hold a public hearing or hearings at such venues and times as it considers appropriate to canvass the opinion of interested parties on the application for the issuing, renewal, transfer or revocation of a licence:

Provided that the Authority is not obliged to hold a public hearing –

(a) where it is of the opinion that the application is of a purely administrative nature or would not materially impact on the interests of any affected party; or

(b) if it is otherwise satisfied that it will be able to properly decide on an application without holding a public hearing.

(3) The Authority must, in deciding on an application and approving the conditions to which a licence is subject –

- (a) act in a manner that is transparent and fair, with due regard to the rights of the applicant to be heard;
- (b) promote an efficient, reliable and economic system of electricity generation, transmission, supply and distribution within and importation into and export of electricity from Swaziland;
- (c) issue licences in a manner that maintains and improves efficiency, economy and reliability on the part of licensees so as to enable all reasonable demands for electricity to be met, in accordance with prevailing Government policy;
- (d) have regard to the need of licensees to be able to finance the carrying out of their licensed activities;
- (e) encourage efficiency, economy and safety in the use of electricity;
- (f) regulate the quality of service and the tariffs, fees and charges payable for electricity keeping in view both the interests of consumers and of licensees;
- (g) have regard to promotion of health, safety and the environment;
- (h) oversee the effectiveness of the mechanisms, processes and forces prevalent in the electricity sector to ensure that there is a reasonable balance between the demand for electricity and the supply thereof; and
- (i) act in a manner consistent with the provisions of the Act.

(4) The Authority is not obliged to approve an application or may approve an application with such changes, as it deems necessary in the circumstances.

(5) The Authority must keep written record of its proceedings and must, in the event that an application is not approved or approved with changes, at the request of the applicant provide written reasons therefor.

### **Issuing of licence**

6(1) The Authority shall issue, amend, transfer or revoke a licence subject to the conditions and provisions set out in sections 15 to 20 of the Act.

(2) Any conditions to which a licence is made subject shall be set out in the licence concerned.

(3) The Authority is not obliged to issue a licence and may, if it deems it desirable for the electricity market model adopted at that point in time in Swaziland, issue only one licence per applicant for one or more of the activities that need to be licensed in terms of the Act.

(4) The Authority may issue separate or combined licences for any licensed activity or combination of activities.

(5) The Authority must keep and maintain a register, in which must be recorded in respect of every licence issued under the Act -

(a) the name of every licensee;

(b) the type of licence issued;

(c) the area in respect of which the licence has been issued;

- (d) the conditions imposed on the licensee in terms of the licence, including the list of tariffs, rates or charges charged by the licensee at that point in time;
- (e) the liabilities and obligations of every licensee in relation to the payment of any fees in terms of this Act;
- (f) such other particulars as may be determined by the Authority.

(6) The register must, during normal office hours, be open for inspection by any interested person at the place of business of the Authority, and any such person may request copies or extracts of any entry in the register and must be provided with such copies or extracts on payment at cost of such copies to the Authority.

## **PART TWO: EXEMPTION TO HOLD A LICENCE**

### **Exemption from obligation to hold a licence**

7.(1) Any generator who generates electricity with a plant of less than 100 kilowatt exclusively for own use does not need to apply for or hold a licence, provided that such person complies to the requirements set out in section 10.

(2) Any owner or operator of an off grid and mini-grid supply scheme exempted by the Minister by regulation does not need to apply for or hold a licence.

(3) Any generator who generates electricity with a plant of more than 100 kilowatt exclusively for own use shall be exempt from applying for or holding a licence, if such person applies for and is granted exemption in accordance with section 8.

(4) Any re-seller of electricity shall be exempt from applying for or holding a licence, if such person applies for and is granted exemption in accordance with section 8.

(5) Any person other than a person contemplated or exempted in terms of subsection (1) to (4) who carries on the activities of generation, transmission, transmission system operation, distribution, supply or the import or export of electricity must apply for and hold a licence

### **Application for exemption to hold licence**

8(1) Any person contemplated in section 7(3) or section 7(4) must apply to the Authority for exemption to apply for and hold a licence.

(2) An application for exemption by a person referred to in section 7(3) must contain –

- (a) the full names and physical and postal address of the person applying for exemption;
- (b) the fuel source of the generator;
- (c) the output of the generator;
- (d) the period for which electricity will be generated;
- (e) an acknowledgment and undertaking that electricity generated may only be supplied for own use; and
- (f) an undertaking that all applicable health, safety and environmental standards regarding the construction, operation and maintenance of the generator and any associated transmission or distribution infrastructure will be complied with.

(3) An application for exemption by a person referred to in section 7(4) must contain --

- (a) the full names and physical and postal address of the person applying for exemption;
- (b) the source of the electricity re-sold;
- (c) the names of the customers to whom electricity are re-sold or proposed to be sold;
- (d) a letter of permission or other proof acceptable to the Authority by customers or prospective customers authorising the applicant to supply them with electricity;
- (e) the total amount of electricity that are on-sold or proposed to be on-sold;
- (e) an acknowledgment and undertaking by the applicant that electricity re-sold may not be sold at higher prices than the prices at which a licensee would have sold such electricity if the customers were directly supplied with electricity by such licensee;
- (f) an undertaking that all applicable health, safety and environmental standards regarding the supply of electricity will be complied with.

### **Approval of exemption**

9.(1) On receipt of a complete and satisfactory application contemplated in section 8, the Authority shall provide an applicant with an exemption on such conditions and for such period, not exceeding twenty four months, as it may determine.

(2) Exemption conditions for an applicant contemplated in section 7(3) may relate to –

(a) ensuring that the generating plant is not used for the commercial production and sale of electricity, including co-generation;

(b) the keeping of statistical data on fuel sources, fuel usage and electricity produced by the plant;

(c) the connection of the generating plant to any transmission or distribution infrastructure ;

(d) the availability of and purchase of electricity by the owner of the generating plant in the event that the plant is not available for own generation purposes;

(e) compliance with applicable health, safety, quality of supply and service standards;

(f) any other condition relevant to the construction, operation and use of the generating plant.

(3) Exemption conditions for an applicant contemplated in section 7(3) may relate to –

(a) obliging the re-seller to sell electricity to an end consumer at a price that is not higher than the price of electricity if the end consumer was directly supplied by the person from whom the on-seller acquired the electricity for sale to the end consumer;

(b) compliance with applicable health, safety, quality of supply and service standards;

- (c) the keeping of records of customers to whom electricity is supplied, the quantity of electricity supplied to such customers on a monthly basis, and the price at which electricity is thus supplied;
  - (d) any other condition relevant to the supply of electricity to end consumers by such re-seller.
- (4) The Authority shall not be obliged to issue an exemption if –
- (a) the application is not complete;
  - (b) the applicant provided false or misleading information; or
  - (c) it has reason to believe that the applicant will not abide to the conditions under which it was issued.
- (5) An exemption granted in terms of this section may at any time be revoked by the Authority on transgression by the holder thereof to any conditions to which it is subject.

### **General obligations for exempted persons**

10. Notwithstanding the Authority's power to determine conditions on which exemption are given, an the holder of an exemption shall –
- (a) from time to time provide such information to the Authority as it may reasonably require; and
  - (b) at the request of any licensee, partake in such actions as may be necessary to facilitate co-ordination between the activities of the holder of that exemption and the licensee.

## **Renewal of exemption**

11.(1) The holder of an exemption may, prior to such exemption lapsing, apply for the renewal thereof.

(2) An application for renewal of an exemption shall be done in the same manner as a new application for exemption.

## **Application fee**

12. An application for exemption shall be accompanied by the licence application fee imposed under the Fee Regulations, which fee is non-refundable.

## **PART THREE: TARIFFS**

### **Tariff Regulation**

13.(1) No licensee that in terms of its licence is subject to tariff regulation in accordance with section 32 of the Act may charge a customer any other tariff for regulated activities than a tariff --

(a) calculated in accordance with the tariff methodology determined by the Authority; and

(b) approved of by the Authority.

(2) The approved tariff schedule and tariffs shall –

(a) annually be published by the licensee in at least one national newspaper circulating in the area where the regulated activities are performed ;

(b) be freely and at no charge be available to customers on request; and

- (c) be prominently displayed on the website of the licensee.

### **Tariff adjustments**

14.(1) A licensee may, on an annual basis, before or on a date determined by the Authority, submit a request for adjustment of its regulated tariffs to the Authority: Provided that the Authority may, in exceptional circumstances, permit the licensee to submit a request for adjustment of its regulated tariffs on a more frequent basis.

(2) A request in terms of subsection (1) shall be done on the form provided by the Authority to the licensee for this purpose and must be accompanied by documentary evidence substantiating –

- (a) the revenue requirements of that licensee for the forthcoming financial year;
- (b) the expected sales of electricity for that year;
- (b) the proposed tariff schedule to be implemented by the licensee, as derived from its revenue requirements and expected sales;
- (d) adherence to the tariff methodology approved of by the Authority;  
and
- (c) such other particulars as the Authority may require to properly consider the tariff application.

### **Consideration of tariff application**

15(1) The Authority shall upon receipt of a request in terms of section 14 –

- (a) verify that the revenues from proposed tariffs and projected sales per customer and tariff category match the allowed revenue requirement;
  - (b) ensure that proposed tariffs are relatively evenly balanced across individual customer or tariff categories;
  - (c) ensure that the tariff application adheres to the tariff methodology approved of by the Authority.
- (2) The Authority may hold a public hearing or hearings at such venues and times as it considers appropriate to canvass the opinion of interested parties on the application for the tariff adjustments.
- (3) The Authority must consider the application and give its ruling thereon within three months of receipt of the application with due consideration of –
- (a) the tariff methodology approved of by the Authority;
  - (b) public opinion canvassed by the Authority; and
  - (c) the provisions of the Act.

### **Expert advice and discussions**

16. The Authority shall be entitled to acquire expert advice on any tariff application submitted by a licensee, and may request the applicant to provide or such additional documentation and clarifications or hold discussions with the Authority or such experts as it deems appropriate in the circumstances.

## **PART FOUR: INFORMATION**

### **Rendering of Information**

17.(1) A licensee must submit to the Authority all information that may be required in terms of its licence.

(2) In addition to any other information that may be required in a licence, a licensee must provide –

(a) detailed audited annual financial statements consisting of a balance sheet, income statement and cash flow statement for each licensed activity;

(b) the business plan and projections of the licensee for the forthcoming financial year;

(b) an updated plan of generating plant, transmission networks, distribution networks and associated infrastructure, and proposed amendments or additions thereto; and

(c) details of electricity suppliers or consumers, including total capacity and energy purchased or sold by supplier or consumer class.

(3) The information required in terms of subsection (2) must be submitted annually within six months of a licensee's financial year end, except for information contemplated in subsection (2)(b), which must be supplied within one month of the approval of the business plan by the board of directors of that licensee.

## **PART FIVE: DISPUTES, INVESTIGATIONS AND NON-COMPLIANCE**

### **Mediation**

18.(1) A request to the Authority to act as mediator in terms of section 40(2) of the Act must be made in writing and must set out the nature of the dispute between the parties.

- (2) A person appointed in terms of section 40(3) of the Act must –
- (a) be a person suitable to deal with the matter at hand with no conflict of interest in the matter; and
  - (b) be so appointed within ten working days of receipt of the application for mediation.
- (3) At the commencement of mediation, the appointed mediator must-
- (a) inform the parties that he or she does not have any conflict of interest;
  - (b) inform the parties about the procedure and manner in which the mediation will be conducted;
  - (c) inform the parties how the fees contemplated in section 20 must be paid and to whom payments should be made; and
  - (d) secure agreement from the parties to the dispute with regard to paragraphs (a) to (c) before proceeding with the mediation.

### **Arbitration**

19.(1) A request to the Authority to act as arbitrator in terms of section 40(1) of the Act must be made in writing and must set out the nature of the dispute between the parties.

- (2) A person appointed in terms of section 40(3) of the Act must –
- (a) be a suitable person with no conflict of interest in the matter; and
  - (b) be so appointed within ten working days of receipt of the application for arbitration.

- (3) At the commencement of arbitration, the appointed arbitrator must –
- (a) inform the parties that he or she does not have any conflict of interest;
  - (b) inform the parties about the procedure and manner in which the arbitration will be conducted;
  - (c) inform the parties how the fees contemplated in section 20 must be paid and to whom payments should be made;
  - (d) inform the parties that any award made will be final and binding;
- and
- (e) secure agreement from the parties to the dispute with regard to paragraphs (a) to (d) before proceeding with the arbitration..
- (4) The claimant party initiating a dispute must submit to the arbitrator and to the respondent party against whom the claim is being made a written statement containing the following information -
- (a) the name and address of the person who will represent the claimant at the proceedings;
  - (b) a detailed description of the dispute; and
  - (c) the relief or remedy sought and the amount claimed, if applicable.
- (5) The respondent shall, after receipt of the statement referred to in subsection (4), submit a written statement of defence to the arbitrator and the claimant before or on the date determined by the arbitrator.
- (6) During arbitration proceedings, any party may amend or supplement its claim, counterclaim or defence, unless the arbitrator considers it inappropriate to allow such amendment or supplement –
- (a) because of the party's delay in making it;
  - (b) if it would be prejudicial to the other party; or

(c) because of any other circumstances deemed relevant by the arbitrator.

(7) A party may not amend or supplement a claim or counterclaim if the amendment or supplement would fall outside the scope of the agreement to arbitrate.

(8) Any party to an arbitration may be represented in an arbitration.

(9) The names, addresses and telephone numbers of party representatives shall be communicated in writing to the other parties and to the arbitrator.

(10) The parties or their representatives may communicate in writing directly with the arbitrator: Provided that copies of such documents are also provided to all the other parties to the dispute.

(11) The arbitrator must conduct the arbitration in a manner that ensures that the parties are treated with equality and that each party has the right to be heard and is given a fair opportunity to present its case.

(12) Documents or information supplied to the arbitrator by one party shall at the same time be supplied by that party to all other parties.

(13) Each party shall have the burden of proving the facts relied on to support its claim or defence.

(14) At any time during the proceedings, the arbitrator may summon any person to testify before it or order parties to produce documents, exhibits or other evidence that it deems necessary or appropriate.

(15) The arbitrator may appoint one or more independent experts to report to it, in writing, on specific issues designated by the arbitrator and communicated to the parties.

(16) The parties shall provide an appointed expert with any relevant information or produce for inspection any relevant documents or goods that such expert may require.

(17) Any dispute between a party and the appointed expert as to the relevance of the requested information or goods shall be referred to the arbitrator for decision.

(18) Upon receipt of an appointed expert's written report, the arbitrator shall send a copy of the report to all parties to the dispute and shall give the parties to the dispute an opportunity to express, in writing, their opinion on the report.

(19) A party may examine any document on which the appointed expert has relied in such a report.

(20) At the request of a party, the arbitrator shall give the parties an opportunity to question the appointed expert at a hearing and to present expert witnesses to testify on the points at issue.

(21) Awards by an arbitrator shall be made in writing and shall be final and binding on the parties and may be made an order of the Tribunal or other competent court, and the parties must carry out any such award without delay.

(22) The arbitrator must state the reasons for the award.

(23) An award may be made public only with the consent of the parties to the dispute, or as required by law.

(24) In addition to making a final award, the arbitrator may make interim, interlocutory, or partial orders and awards.

(25) The arbitrator must, upon request of the parties, terminate the arbitration if the parties settle the dispute before an award is made: Provided that the arbitrator may at the request of the parties make such settlement an arbitration order.

(26) If in the opinion of the arbitrator, the continuation of the proceedings becomes unnecessary or impossible for any reason, the arbitrator must inform the parties of its intention to terminate the proceedings and must thereafter issue an order terminating the arbitration.

(27) Confidential information disclosed during the proceedings by the parties or by witnesses shall not be divulged by the arbitrator.

(28) The arbitrator shall keep confidential all matters relating to the arbitration or the award, unless otherwise agreed by the parties or required by applicable law.

(29) The arbitrator shall not be liable for any act or omission in connection with any arbitration conducted under these sections, except for the consequences of conscious and deliberate wrongdoing.

### **Costs of mediation and arbitration**

20.(1) The Authority shall charge fees for mediation and arbitration services.

(2) The fees referred to in subsection (1) must be-

(a) sufficient to recover all or part of the costs incurred by the Authority including, if applicable, the costs of a mediator or arbitrator, as the case may be; and

(b) paid by one or more of the parties to the dispute as is determined by the mediator or arbitrator, taking into account the circumstances of and parties to the dispute.

(3) The fees contemplated in these sections must be paid within thirty calendar days of receipt of an invoice detailing the fees payable, unless the Authority determines otherwise.

### **Tribunal**

21. Nothing in these sections shall be read as to impact on the rights of a person to refer a dispute to the Tribunal in accordance with the Act, and a person is not obliged to follow a mediation or arbitration procedure prior to such referral.

### **Enquiries and Investigations**

22.(1) The Authority may, if it in its own right, or on receipt of a complaint, believes a transgression or non-compliance of a licence condition or a provision of the Act has occurred --

(a) initiate an inquiry against a licensee or other person that is subject to the provisions of the Act; or

(b) institute a formal investigation against such licensee or other person if it has *prima facie* evidence of such transgression or non-compliance.

(2) On receipt of the results of an inquiry, the Authority shall institute a formal investigation if it is *prima facie* of the opinion that a condition of the licence or provision of the Act has been transgressed.

(3) The investigation shall be chaired by a person appointed by the Authority and as many persons as may be needed to assist him.

(4) The investigation shall be entitled to summon witnesses, hear evidence and conduct the investigation in the manner determined by the chairperson.

(5) On completion of the investigation the chairperson shall submit his written report and recommendations thereon, including recommendations as to the suggested penalties or other sanctions to be imposed.

(6) On receipt of a report from the chairperson as contemplated in subsection (5) the Authority must decide thereon and may implement the recommendations with or without changes, with due regard to the provisions of section 19 of the Act .

### **Non-compliance and rectification**

23.(1) The Authority may, upon a licensee failing to comply with or transgressing a condition of its licence or a provision of the Act, serve on that licensee a notice in writing to rectify such deficiency within 30 (thirty) days or such longer period as may be determined by the Authority.

(2) Upon the licensee not rectifying a deficiency within the period determined by the Authority, the Authority may –

(a) impose a fine not exceeding [10] per cent of the turnover of that licensee or person;

(b) if the transgression or failure to comply is material, in addition to or in the place of such monetary penalty –

(i) amend the licence;

(ii) revoke the licence;

(iii) direct another licensee to meet the obligations of that licensee.

(3) A licensee may request the Authority to extend the period of rectification provided for in subsection (1), which permission shall not unreasonably be refused: Provided that –

(a) the Authority is convinced that the licensee is taking sufficient steps towards rectifying the transgression or non-compliance; and

(b) extension may only be provided for a maximum of 30 (thirty) days at a time.

(4) The Authority is not obliged to provide a period of rectification or may provide a shorter period of rectification in the event that the transgression or non-compliance of a licence condition or the Act is of a serious nature, or follows from an investigation contemplated in section 22.

### **Non-compliance to Quality of Supply and Service Standards**

24.(1) The Authority may impose monetary penalties for non-compliance to or transgression of quality of supply and quality of service standards issued or adopted by the Authority that are payable immediately upon the non-compliance or transgression becoming apparent to the licensee.

(2) A penalty imposed under subsection (1) shall be payable to the customer impacted by the non-compliance or transgression of the quality of supply or service standard.

(3) The Authority shall publish a list setting out the penalties and the circumstances under which it is payable, and such list shall on request be made available to any licensee or customer of a licensee.

**Procedure to be followed in imposing penalties, amending a licence, revoking a licence or assignment of licence to other licensee**

25.(1) Following an investigation contemplated in section 22, or in the event that a licensee has not rectified a deficiency within a period determined in terms of section 23, the Authority shall in writing inform the licensee that it intends to

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- (a) amend the licence;
- (b) revoke the licence; or
- (c) direct another licensee to meet the obligations of that licensee.

(2) Upon receipt of a notice referred to in subsection (1), the licensee shall have 14 (fourteen) days to make written representation thereon to the Authority.

(3) Upon receipt of the written representation referred to in subsection (2), the Authority may call on the licensee to make such further representations to it within the period it may determine as may be needed to properly exercise its discretion, and it may either decide to section on the matter based on the papers before it, or conduct a hearing to decide on the matter.

(4) In the event that the Authority decides to conduct a hearing as contemplated in subsection (3), the licensee shall be entitled to attend the hearing, to state its case, to put forward witnesses, to cross-examine any witnesses put forward by the Authority, and to be represented or assisted by such legal, financial and technical experts as may be necessary in the circumstances.

(5) The procedure to be followed at a hearing shall be determined by the chairperson of the Authority.

(5) The Authority shall record its decision on the matter and the reasons therefor in writing and the licensee shall be entitled to a copy thereof.

### **Directing other licensee to meet obligations**

26.(1) In the event that the Authority directs another licensee to take over the obligations of a licensee –

(a) the former licensee shall remain accountable for its licensed rights and responsibilities up to the time the assuming licensee assumes its rights and responsibilities; and

(b) the Authority shall determine the date on which the assuming licensee assumes the licensed rights and responsibilities of the old licensee.

## **PART FIVE: QUALITY OF SERVICE AND SUPPLY**

### **Quality of Service and Supply**

27. A licensee shall comply to the service standards and quality of supply standards prescribed in NRS047-1 and NRS 048,-2 unless and to the extent exempted by the Authority from adhering thereto.