

LEGAL NOTICE NO. 135 OF 2009

**Lesotho Electricity Authority (Licensee Fees and Levies)
Regulations, 2009**

Pursuant to section 112 of the Lesotho Electricity Authority Act, 2002¹, 1

MONYANE MOLELEKI

Minister of Natural Resources, make the following Regulations:

Citation and commencement

1. These regulations may be cited as the Lesotho Electricity Authority (Licensee Fees and Levies) Regulations, 2009, and shall come into operation on the date of publication in the Gazette.

Interpretation

2. In these Regulations unless the context otherwise requires -

“the Act” means the Lesotho Electricity Authority Act 2002;

“the Authority” means the Lesotho Electricity Authority established in terms of section 3 of the Act;

“customer” means a person who takes and uses a supply of electricity or may take and use a supply of electricity in future;

“Minister” means the Minister responsible for natural resources;

“relevant year” means any year beginning 1st April and ending 31st March;

“Universal Access Fund” means the fund established in terms of the Lesotho Electricity Authority (Universal Access Fund) Rules 2009.

Licence application fees

3. (1) A licence application fee shall be payable by all eligible applicants for a generation, transmission, distribution and supply licence, or an import or export licence and shall reflect administrative costs associated with assessing and processing the application.

(2) The Authority may exempt a person who receives funding from the Universal Access Fund from payment of a licence application fee.

(3) Payment of the licence application fee shall be made upon submission of a completed licence application form.

(4) Payment made under this regulation may be -

- (a) made by a cheque, bank transfer or postal order payable to the Lesotho Electricity Authority; and
- (b) submitted with completed application form by registered post or hand delivered to the headquarters of the Lesotho Electricity Authority, and the envelope shall be marked licence application.

(5) A licence application fee shall be as set out in the Schedule to the Lesotho Electricity Authority (Application for Licences and Extension to Licences) Rules 2009.

(6) A licence application fee shall only apply to a single licence application, and shall not cover any re-applications resulting from previous rejections of licence applications

(7) Secondary applications for a licence of any kind shall be accompanied by a licence application fee.

(8) The Authority shall, within three days of receipt of the completed application form and enclosed licence application fee, post or hand deliver a receipt to an applicant.

Annual licence fees

4. (1) A licensee shall, in respect of each relevant year at the beginning of which he holds a licence, pay to the Authority the relevant proportion of the estimated costs of regulation as incurred by the Authority in the conduct of its functions under the Act.

(2) The Authority shall, in determining annual licence fees, seek an appropriate balance with the customer levy, giving due consideration to the

level of licence fee which it considers to be reasonable and the broad split of regulatory costs between licensees and customers.

(3) The Authority may exempt a licensee who receives funding from the Universal Access Fund from paying annual fees.

Procedure for calculation of the Authority's total costs in a relevant year

5. (1) The Authority shall, by 31st December each year, publish its forecast costs for the following three financial years.

(2) The first of the three financial years referred to in subregulation (1) is designated "year T^{+1} " and the previous relevant years is designated "year T^{-1} ".

(3) The Authority may, at any time before the start of a relevant year, adjust its forecast costs of regulation for that year T^{+1} by an amount which the Authority under or overspent in year T^{-1} .

(4) The Authority shall determine the share of the total licence/amended fee income required that each licensee shall contribute.

(5) A share of the total licensee fee income referred to in subregulation (4) shall be based on the category of licence holder and the forecast units generated, transmitted, distributed supplied or sold.

(6) A licensee shall provide the following information not later than 1st June each year for the following relevant year or within a period specified by the Authority:

- (a) a forecast of units to be generated in year T^{+1} ;
- (b) the actual units generated in year T^{-1} ;
- (c) a forecast of units to be transmitted in year T^{+1} ;
- (d) the actual units to be transmitted in year T^{-1} ;
- (e) a forecast of units to be distributed in year T^{+1} ;

- (f) the actual units distributed in year T^{-1} ;
- (g) a forecast of units to be supplied/sold in year T^{+1} ; and
- (h) the actual units supplied or sold in year T^{-1} .

(7) The Authority may approve forecasts supplied under subregulation (6) with licensees and accordingly request that a licensee re-evaluate and adjust its forecast.

(8) The Authority shall specify an appropriate time period for the resubmission of forecasts.

(9) The Authority may revise licence fees for previous years if the actual out-turns of units generated, transmitted, distributed or supplied differ materially from licensees' forecast.

(10) The Authority shall notify the licensee of revisions by 1 September of the year following the relevant year to which the licence fees apply.

(11) The Authority shall make an estimate of the total licensee regulatory costs imposed by each category of licensee.

(12) The Authority may revise its estimate for any relevant year not later than six months prior to the start of the relevant year.

(13) The Authority shall determine what proportion of the total costs apportioned to each licence category and individual licensee in that category shall be liable to pay.

(14) The basis for the calculation of costs to be apportioned shall be the data provided in subregulation (6).

(15) The Authority shall inform each licensee, in writing, of the total licence fee payable in a relevant year.

(16) The proposed approved amount for the coming financial year shall be notified to licensees not later than six months prior to the start of any relevant year.

(17) Licensees may, within 30 days of notification by the Authority of the licence fee payable, submit comments to the Authority on the likely impact on tariffs, taking into account all cost elements that contribute to the final tariff amounts.

(18) The Authority shall approve the levy for the coming financial year after taking into account any such comments received from licensees.

(19) The Authority shall -

- (a) notify licensee of the confirmed licence amount payable; and
- (b) publish its forecast costs and licence fee income in its annual statement of accounts.

Payments of licence fees

6. (1) A licensee shall pay a licence fee to the Authority within thirty days of the actual giving of notice by the Authority.

(2) Payment made pursuant to subregulation (1) shall be in one instalment being due for payment by 31 October in each year, provided that if the Authority has not given notice of the amount in the instalment at least thirty days before the payment date stated above, the licensee shall pay the amount due within thirty days of the actual giving notice by the Authority to the licensee whenever the notice is given.

(3) Payments of adjusted licence fees envisaged in regulation 5(9) shall be made within two calendar months of notification by the Authority.

(4) Where a licensee fails to pay the amount determined in accordance with subregulations (3) and (4) within thirty days of the due date, the Authority shall charge simple interest on the amount at the rate which is, from time to time, equivalent to the base rate plus 1% of the Central Bank of Lesotho.

(5) Where there is no base rate to determine the interest on the amount, the Authority may designate any other rate.

Customer levy

7. (1) Every customer who is supplied by a licensee, without exception, shall be required to pay a customer levy to the Authority unless stipulated by the Minister by notice in the Gazette.

(2) The total annual customer levy shall provide a proportion of the Authority's income, the remainder being provided by licence fees.

(3) The Authority shall, in determining annual customer levies, seek an appropriate balance with the annual licence fees, giving due consideration to the level of annual licence which it considers to be reasonable and the broad split of regulatory costs between licensees and customers.

Procedure for determining the customer levy

8. (1) The Authority shall, in allocating the customer levy, only take into account the ability of all customer categories to pay the customer levy.

(2) The Authority shall, in allocating a customer levy pursuant to subregulation (1), pay due attention to the following for each customer category in the relevant year:

- (a) energy charges as approved by the Authority;
- (b) maximum demand charges, where appropriate, as approved by the authority; and
- (c) a contribution of annual licence fees covering the cost of the Authority.

(3) The Authority may, as it sees fit, vary the customer levy between customer categories.

(4) The Authority shall, in varying customer levy in terms of subregulation 2(c), act with fairness and transparency in allocating the customer levy, base its decision upon ability of all customer classes to pay.

(5) The Authority shall, in carrying out its functions under these Regulations, act at all times pursuant to its duties as described in section 21(1)(e) of the Act.

(6) The Authority shall, by 31st December each year, publish its forecast costs for the following three financial years and the first of these relevant years is designated year T^{+1} .

(7) The Authority may, at any time before the start of a relevant year, adjust its forecast costs of regulation for that year T^{+1} by an amount which the Authority under or overspent in year T^{-1} , provided that such adjustment does not exceed 10% of the forecast costs for the year T^{+1} .

(8) The Authority shall determine a share of the total customer income that each supply licensee shall contribute.

(9) A share of the total customer levy income referred to in subregulation (8) shall be based on a forecast of units to be supplied or sold.

(10) A supply licensee shall provide the following information not later than 1st June each year for the following relevant year or within a period which may be specified by the Authority:

- (a) a forecast of units to be supplied or sold in year T^{+1} ;
and
- (b) the actual units supplied or sold in year T^{-1} .

(11) The Authority shall approve forecasts supplied under subregulation (6) with licensees, and may request that a licensee re-evaluate and adjust its forecast accordingly.

(12) The Authority shall specify a period within which resubmission of forecast is to be made.

(13) The Authority may revise the customer levy for previous years if the actual out-turns of units supplied differ materially from licensees' forecasts.

(14) The Authority shall, in writing, notify supply licensees of revisions referred to subregulation (13) by 1 September of the year following the relevant year to which the customer levy apply.

(15) The Authority shall inform each supply licensee, in writing, of the total amount of customer levy payable and the customer licence fee levy payable in each customer category.

(16) The proposed customer levy for the next financial year will be notified by the Authority, to supply licensees not later than six months prior to the start of any relevant year.

(17) Supply licensees may, within thirty days of notification by the Authority of the customer levy payable, submit comments to the Authority on the likely impact on tariffs, taking into account all cost elements that contribute to the final tariff amounts;

(18) The Authority shall approve the levy for the coming financial year after taking into account any comments received from licensees. The Authority shall publish the confirmed total customer levy income in its annual statement of accounts.

Payments of the customer levy

9. (1) Supply licensees shall charge the customer levy on every unit of electricity billed or purchased.

(2) Supply licensees shall, within fifteen days of the end of each calendar month, pass on to the Authority the customer levy collected.

(3) Supply licensee shall pay to the Authority, within forty five days of the end of any relevant year, a full amount of customer levy which shall include any debts on previous months in that relevant financial year.

(4) Supply licensees may be required to display on each customer's electricity bill the amount of customer levy charged by the Authority.

**MONYANE MOLELEKI
MINISTER OF NATURAL RESOURCES**

NOTE

1. Act No. 12 of 2002