Fight Looms Over New Electricity Regulation Bill

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A new Electricity Regulation Bill has been introduced into Parliament which, if enacted, will strip the power of the National Energy Regulator (NER) to approve electricity prices for most electricity consumers living in cities and towns in South Africa. Instead, government intends handing this power to municipalities acting under the guidance of the Minister of Minerals and Energy. Is this a good idea?

The Bill picks up on a single line in the Constitution that states that "A municipality has executive authority in respect of, and has the right to administer……electricity reticulation." There has always been some debate about what this actually means.

The new Bill chooses an interpretation that maximises the powers of municipalities. Reticulation is defined as the distribution of electricity to domestic, commercial and light industrial customers (less than 5000 MWh per annum) within municipal boundaries. Critically, the Bill excludes reticulation entities from the requirements of being licensed; thus the regulator will no longer have the powers to set or approve prices for customers of such entities. The Bill also gives municipalities control over service providers, such as Eskom or Regional Electricity Distribution Companies (REDs), operating within municipal boundaries.

The Minister will now be given the power to prescribe national norms and standards for municipalities. These norms and standards might be appropriate in technical areas such as maintaining voltage or frequency levels. They may even be used to define which types of tariff structures may be employed. But they are useless for establishing actual tariff *levels* for customers supplied by specific utilities. Economic regulation requires an understanding of operational costs, the asset base, investment plans, cost of capital and revenue requirements of individual utilities and involves setting realistic and effective incentives for efficiency improvements. The NER has being applying these methodologies to Eskom (achieving substantial savings over the past few years) and had been planning to use them for large municipalities and the REDs. National guidelines, on the other hand, can only be applied in a general sense and are a weak and ineffective instrument for driving costs down and protecting consumers.

There is no reference in the Bill to government's intention to merge all the electricity distribution entities in municipalities and Eskom into six REDs. By far the most elegant and effective regulatory regime would be for the NER to protect the majority of electricity consumers by simply regulating these six entities directly.

What is to be done?   First, the right of the NER to regulate the entire electricity network, including municipal utilities and REDs, needs to be restored. Second, the constitutional rights ("executive authority and administration") of municipalities over electricity reticulation need to be defined as meaning that they have broad responsibilities around electrification planning and integration with other services, such as housing, but *not* the right to regulate electricity prices.

The electricity system in South Africa comprises a nationally integrated system with a contiguous value chain that flows from generation through transmission and distribution or reticulation. Effective regulation requires a professional national regulator who is able to squeeze efficiencies along the entire value chain and ensure that these are passed on to consumers. Let's hope that interested and affected stakeholders will make their voices heard in the Parliamentary hearings on this Bill (scheduled in October/November) to ensure that it is substantially amended.

Stakeholders interested in making representations to the Parliamentary Portfolio Committee on Minerals and Energy may contact the committee secretary, Shanaaz Isaacs at 021 403 3763 or email her at shisaacs@parliament.gov.za