



energy

Department:
Energy
REPUBLIC OF SOUTH AFRICA

FRAMEWORK FOR SHORT-TERM NEGOTIATED PRICING AGREEMENTS

TO SUSTAIN AND GROW THE SOUTH AFRICAN ECONOMY THROUGH
INCREASED ELECTRICITY CONSUMPTION

DEPARTMEN OF ENERGY

ISSUED IN TERMS OF:

THE ELECTRICITY PRICING POLICY (EPP) OF THE
SOUTH AFRICAN ELECTRICITY SUPPLY INDUSTRY

(2008)

Term	Definition
Applicable energy	The active energy, supplied to a particular successful applicant that qualifies to be supplied at the approved incentive price.
Applicable licensee	Licensee that is licensed to supply a particular applicant.
Applicant	Business entity that has applied to a licensee for incentive pricing in terms of this Framework.
Commodity-price uplift	Additional amount to be paid by successful applicants that contract for this option, arising from the fact that the applicable commodity price exceeded the agreed reference price for a given calendar quarter.
Interruptibility	[Also known as non-voluntary load reduction] A demand-side service provided by participating consumers aimed at providing flexible and rapid response to the needs of the electricity system operator in situations of imbalance between generation or network capacity and demand.
Minimum incentive price	Lowest incentive price, after approved escalation, to be paid by a successful applicant for any given billing period.
Processing authority	Licensee or licensees required to process an application for incentive pricing in terms of this Framework.
Short-run marginal cost	The cost of producing and delivering a relatively small amount of additional energy using existing assets; i.e. the variable cost of supply at a particular point in time.
Successful applicant	Applicant whose application for incentive pricing has been duly approved by the Regulator in terms of this Framework.
Take-or-pay	Additional amount to be paid by successful applicants that contract for this option, arising from the fact that the applicant did not meet the agreed minimum consumption for a given calendar quarter.

A. PREAMBLE

South Africa's economic environment is subject to change as a result of both internal and external forces, which can seriously affect certain electricity consumers from time to time. In addition, the economy is currently characterised by high unemployment, poverty and income inequality, necessitating interventions to increase localisation, thus creating and securing jobs, in the interests of poverty reduction and income parity. In this context, electricity is a primary driver of economic activity and the electricity price plays a significant part in determining economic growth.

Pricing regulation is the responsibility of NERSA, in conjunction with National Treasury, in terms of applicable legislation and energy policy, mainly the Electricity Pricing Policy (**EPP**) of the Department of Energy (**DoE**).

The EPP empowers NERSA to deviate from previously approved licensee tariffs by way of Negotiated Pricing Agreements (**NPAs**). The EPP further stipulates that DoE must develop a transparent NPA application and approval process (i.e. a framework) which will set out the criteria against which NERSA evaluates, approves and monitors NPAs, whilst ensuring consultation with key stakeholders, including National Treasury (**NT**).

The NPA framework is divided into two parts: Part 1 will address short-term NPAs with a duration of up to 24 months.

B. INTRODUCTION

1. Purpose, Scope and limitations

The purpose of the Framework for Short-term NPAs is to facilitate the provision of incentive pricing, to enable qualifying consumers to sustain and/or increase their use of electrical energy to support sustained and increasing economic activity in South Africa (**SA**). In the process, better utilisation of the existing capacity in the Electricity Supply Industry (**ESI**) will benefit the economy as a whole.

2. Rationale

South Africa is currently experiencing a sustained period of low economic growth, which has led *inter alia* to an unsustainable growth in unemployment levels. One of the contributors to low growth is the under-utilisation of existing productive capacity, attributable – in part, at least – to deterioration in SA's competitive position as a global supplier of added-value products. There is strong evidence that the substantial increase in real electricity prices in SA over the past decade has contributed to this deterioration, particularly for those businesses for which electricity constitutes a large percentage of operating costs. Along with improvements in electricity efficiency, this has resulted in consumption by large, electricity intensive industries falling substantially over the past 5-6 years. In turn, this has increased the unit cost of electricity as both fixed costs and cross-subsidies are spread over a smaller consumption base. The Framework for Short-term NPAs (hereafter **STF**) has been

specifically structured to provide opportunities to sustain existing businesses that are at risk of failure and permit others that have closed production capacity in recent years, owing to their inability to compete in their markets, to restart these assets. This will increase the utilisation of SA's electricity infrastructure, resulting in a lower unit cost of electricity than would otherwise be the case, to the ultimate benefit of all electricity consumers in SA. The major economic benefits to SA anticipated from implementation of the STF may be summarised as follows

–

- Direct and indirect jobs saved by preventing a number of business failures;
- Direct and indirect jobs saved by avoiding the closure or mothballing of Eskom generation capacity;
- New direct and indirect job opportunities owing to the restarting of unused productive capacity;
- Increased economic activity;
- Lower unit cost of electricity;
- Higher tax and Electricity Levy collections;
- Stronger Rand from an improved Balance of Payments; and
- Reduced Social Grant burden on the fiscus.

C. POLICY GUIDELINES

3. Interpretation of EPP Policy Position 14

When the current EPP was drafted in 2008, the only NPAs in effect in SA were of long duration (18 years or longer) and the policy positions applicable to NPAs were drafted accordingly. As the NPAs to be implemented in terms of the STF will be limited to a 24-month duration, it is necessary to clarify the interpretation of certain EPP policy positions in the context hereof.

3.1. *14 (a): NPAs are permitted, but must be structured in a way so as to minimise price distortions.*

- Given that all incentive prices and/or incentives approved in context of this STF shall apply for a maximum of 24 months and must result in net prices that exceed the **Short-run Marginal Cost (SRMC)** of supplying the marginal energy by at least 15% and that the consumption so priced would not have materialised without incentive pricing, price distortion will be effectively minimised.

3.2. *14 (b): Commodity price risk exposure must be hedged outside of the ESI.*

- Given that the commodity price risk provided for in this STF is limited to the upside of the Minimum Incentive Price and that it would apply for a maximum of 24 months, hedging is not considered beneficial in the context hereof.

3.3. *14 (d): The evaluation of NPAs at inception must be based on the cost of supply (excluding cross-subsidies on a discounted cashflow basis over the period of the agreement). The cost of supply for NPAs intended for the sale and consumption of electricity in South Africa must be defined by the electricity price*

forecast which will be based on the prevailing regulatory methodologies in South Africa inclusive of an appropriate risk premium.

- Given the short duration of the incentive pricing to be approved in terms of this STF, it is considered appropriate that the SRMC (both of Eskom and, where applicable, of the municipal Licensee) shall constitute the “cost of supply”;
- It is not considered appropriate nor beneficial to utilise discounted cashflow methods in the context of contracts limited to a maximum of 24 months duration; and
- It follows that a realistic inflation rate should be applied to forecast the future escalation of the SRMC.

4. Fundamental principles

NERSA and the applicable Licensees shall apply following principles to the processing and assessment of all consumer applications in terms of this STF –

- 4.1. Any incentive price granted in terms of this STF shall be aimed at achieving greater electricity consumption than would have transpired without the intervention.
- 4.2. Approved pricing and incentive levels shall be aimed at reducing the unit cost of electricity for all the affected consumers through increased utilisation of assets in the SA ESI.
- 4.3. Processing, assessment and approval timeframes shall be kept to the minimum duration achievable with available resources, provided that care shall be taken to ensure that the best interests of the country and its inhabitants are not compromised in the interest of haste.

5. Confidentiality

Any party that receives information from other parties as a consequence of any Application arising from this STF, shall be obliged to respect the confidentiality of the information supplied and shall only disperse the information as permitted in terms of this document, unless given written permission to do so by the owner of the information. **Incentive categories**

The STF is targeted at Large Industrial Consumers and aims to provide qualifying consumers with access to electricity prices that are lower than would otherwise be available to such consumers, for a period of up to 24 months. The STF has two distinct incentive categories, namely –

- 5.1. Category 1: Enabling qualifying consumers that have been forced to close or severely curtail operations or have underutilised productive capacity to utilise some or all of this capacity; and
- 5.2. Category 2: Enabling qualifying consumers that are facing an imminent threat of closure or severe curtailment of operations to sustain operations.

6. Assessment authority

- 6.1. In terms of the National Energy Regulator Act, NERSA is the appointed Assessment Authority and its decisions in respect of STF applications shall be final.
- 6.2. NERSA shall rely on the preliminary assessments carried out by the applicable Processing Authority to the extent that it deems appropriate, taking into consideration decisions made on similar Applications.
- 6.3. In terms of the EPP, NERSA shall consult with National Treasury and other appropriate Departments of Government prior to making decisions in terms of this STF.
- 6.4. Notwithstanding whether or not the Applicant and the applicable Processing Authority have fully adhered to the requirements outlined elsewhere in this Section 1, NERSA may request any further information it deems necessary to make a decision on a particular application.

7. Applicability

Business consumers that meet the eligibility criteria stipulated in section 8 below, may apply for incentive pricing whether electricity is supplied to the site or sites in question by Eskom or a municipal electricity undertaking or a combination thereof (the **Applicable Licensee/s**).

8. Eligibility

Processing applications will result in a significant additional administrative burden on both the Applicable Licensees and NERSA. Thus, in order to be eligible for consideration as a beneficiary, consumers must meet the following minimum criteria –

- 8.1. Each applicable site must have consumed a minimum of 80 GWh during at least two of the past three completed calendar years or have had a registered Notified Maximum Demand of no less than 5 MVA for at least two of the past three completed calendar years; and
- 8.2. For each applicable site, the annual additional consumption (for Category 1) or consumption at risk (for Category 2) must be no less than 25 GWh.

9. Exclusions

9.1. Anti-competitive behaviour

An Applicant shall automatically be excluded from eligibility whenever the Applicant or its majority shareholder –

- 9.1.1. Has been found guilty of anti-competitive behaviour, that took place within the calendar year during which the application is made or in any one of the previous three calendar years

(collectively, the **Pre-application Period**); The exclusion will be on a case by case basis subject to consultation with the dti and EDD).

Should a successful Applicant or its majority shareholder become the subject of an investigation for anti-competitive behaviour during the tenure of approved incentive pricing, the approval must be withdrawn by NERSA with effect from the next billing date after the announcement of the investigation. Should NERSA, for any reason, fail to withdraw the approval soon enough for implementation as specified above, the ruling shall be made retrospective to that date. All the affected bills shall be amended accordingly by the Applicable Licensee.

9.2. State incentives and support

An Applicant that has received state incentives, tax relief or any other form of state support within the Pre-application Period must declare these benefits when applying. Depending on the degree of state support received, such Applicants may, at the sole discretion of NERSA, be excluded from eligibility or, alternatively, benefits may be reduced to offset all or part of such state support.

In considering such cases, NERSA shall seek advice from, at least, the Department of Trade and Industry (**DTI**) and NT.

9.3. Overdue accounts

An Applicant shall automatically be excluded from eligibility whenever the Applicant or any one of the business sites for which an application is being made is not up to date with its payments in respect of electricity accounts at the date of application, provided that exclusion shall not apply where such overdue amounts are subject to an investigation regarding the accuracy thereof.

Should the overdue amounts in question be subject to an investigation as provided above, the Applicant shall include a declaration to that effect with the application. In these circumstances, the applicable Licensee shall have the sole right to decide whether to proceed with processing the application or to suspend further processing thereof until the matter has been successfully resolved.

10. Incentive benefits

- 10.1. Applications will be evaluated on their own merits, taking account of the market conditions faced by the Applicant as well as the Applicant's competitive environment within SA's borders.
- 10.2. Incentive pricing shall only apply to energy that would not, in NERSA's considered opinion, have been consumed in the absence of an approval in terms of this STF (**Applicable Energy**).

- 10.3. Incentive pricing shall be based on a **Minimum Incentive Price** of applicable energy consumed during any given month. Where electricity is supplied by a Municipal Licensee, the Minimum Incentive Price shall incorporate a charge levied by the applicable Licensee.
- 10.4. The effective monthly unit price of the Applicable Energy, taking account of all charges other than capital charges, may exceed the approved Minimum Incentive Price as a result of changing usage patterns or other factors, but may not be below that price.
- 10.5. The approved initial Minimum Incentive Price will be valid for a maximum of one calendar year or part thereof and will be escalated (but not reduced) with effect from 1 January each year for the duration of the agreement by a factor that shall not be less than the annual percentage change in SA PPI for the year to the November prior to the escalation date.
- 10.6. Successful Applicants will be granted structured electricity price benefits for a maximum period of 24 months, which shall commence on the first (1st) day of the calendar month in which the consumer shall be ready and able to make use of the incentive price, provided that this date shall not be more than four (4) months after the approval date unless a later starting date has been specifically approved.
- 10.7. Successful Applicants shall have the right, but not the obligation, to apply for a single extension of up to 24 months at the end of the approved period, provided that –
 - 10.7.1. This right shall not apply if one or more tariff options or modifications, specifically designed to meet the needs of electricity-intensive consumers, have been introduced in the interim; and
 - 10.7.2. A new Minimum Incentive Price, to be determined in terms of this section 1, shall apply to the extension period.
- 10.8. Successful Applicants shall be required to see out the full term of the incentive pricing period approved in terms of sub-sections 10.6 and 10.7 above and may not cancel contracts entered into in terms of such approvals in order to make use of an alternative tariff or pricing option.
- 10.9. The structure of the **Incentive Tariff** used to determine monthly prices shall be determined by the Licensee with the objective of maximising offtake during the incentive period, but also taking account of the need to provide price signals to optimise the performance of generation and/or network assets.
- 10.10. All consumers that are granted incentive benefits will be required to provide **Interruptibility** when required, free of charge, provided that it is technically feasible to do so without disproportionately impacting productive output.
- 10.11. Unless otherwise agreed by the National System Operator (**NSO**), consumers shall be required to make available Interruptibility of at least 70% of the applicable load, at 10 minutes' notice, for at least two (2)

hours per day for four (4) weekdays in each week, for the duration of the incentive, provided that the utilisation of the Interruptibility shall be at the sole discretion of the NSO.

10.12. In instances where consumers have been relieved of the obligation to provide interruptibility in terms of sub-section 10.10 above, Eskom shall incorporate a reasonable proportion of OCGT generation in its calculation of the SRMC that will be used to assess the Minimum Price Level.

10.13. In those instances where Applicants are prepared to incorporate Commodity-price Uplift and/or Take-or-pay provisions, as outlined below, the Assessment Authority shall consider approving a lower Minimum Incentive Price than would otherwise be the case.

10.14. Commodity-price Uplift (**CPU**) –

10.14.1. Where applicable, the CPU shall be based on a reference price (expressed in ZAR and agreed by the applicable parties), which represents a premium to the current market price of the commodity produced by the Applicant at the date of Application and at which price level the Applicant would anticipate achieving a break-even financial position;

10.14.2. The CPU formula shall be based on the Applicant and the Licensee sharing, in equal or approximately equal proportion, the Applicant's quarterly revenue premium whenever the average market price exceeds the reference price over a calendar quarter;

10.14.3. In instances where the Eskom is not the Licensee, the Licensee shall, in turn, share its portion of the CPU with Eskom in direct proportion to their relative shares of the Incentive Revenue for the applicable calendar quarter; and

10.14.4. Should the effective period of the Incentive Pricing contract result in incomplete calendar quarters at the start and end of the period, the calculation of the CPU shall be based on the average ZAR price for the one or two month period that make up the incomplete quarter.

10.15. Take-or-pay (**TOP**) –

10.15.1. Where applicable, the TOP arrangement shall be negotiated at a level no less than 75% of the estimated electricity consumption over each calendar quarter, provided that, where agreed between the parties in advance, the percentage may be adjusted to take account of a ramp-up to full production off take for the first one or two months of the effective period (depending on the nature of the production equipment);

10.15.2. Should the Applicant not achieve consumption at the agreed TOP level by the end of any calendar quarter, the Licensee shall adjust the total of the bills for the applicable quarter in direct proportion to the average billed incentive price, including any CPU levied for the quarter;

- 10.15.3. In instances where the Eskom is not the Licensee, the Licensee shall, in turn, share its portion of the TOP adjustment with Eskom in direct proportion to their relative shares of the Incentive Revenue for the applicable calendar quarter; and
- 10.15.4. Should the effective period of the Incentive Pricing contract result in incomplete calendar quarters at the start and end of the period, the calculation of the TOP shall be based on the Applicant's consumption over the one or two months that make up the incomplete quarter, provided that the TOP energy shall be reduced by 2.5% for two-month periods and by 5% for one-month periods to reduce the Applicant's risk.

11. Assessments

11.1. Mandatory criteria

In order to approve an application, NERSA must be satisfied that the criteria below have been met –

- 11.1.1. The Applicant has demonstrated that the key assumptions used to support its application are fair and reasonable, based on the available evidence;
- 11.1.2. The Applicant has demonstrated that the Applicable Energy could not reasonably be utilised if that energy were to be purchased at a standard tariff available to the Applicant;
- 11.1.3. The Applicant has demonstrated that the proposed Minimum Incentive Price would enable it to utilise the Applicable Energy, whether or not this would be subject to other measures (which must be clearly defined, where applicable);
- 11.1.4. The applicable Licensee has demonstrated that the proposed Minimum Incentive Price is not less than 65% of the average annual unit price (excluding published cross-subsidy contributions) that the applicable business site would expect to pay the Licensee at the applicable standard tariff if that site was running at a realistic percentage of its capacity, assuming its recent historical response to the price signals embedded in the applicable tariff;
- 11.1.5. Where applicable, the municipal Licensee has included a realistic charge in the proposed Minimum Incentive Price, taking account both of the Licensee's marginal cost of supply and the intent of this STF.
- 11.1.6. Eskom has demonstrated that the proposed Minimum Incentive Price, less any amount added by a municipal Licensee (where applicable), will yield a contribution to Eskom's fixed costs and exceeds, by a minimum of 15%, Eskom's most recent estimate of the SRMC that would be incurred in supplying the incentivised energy;

- 11.1.7. Where applicable, the municipal Licensee and Eskom have reached an agreement that will ensure that all the parties (i.e. the Applicant, the municipality and Eskom) will be fairly treated if and when the incentive pricing is implemented.
- 11.1.8. The Applicant has demonstrated that the cumulative number of people employed in SA by the Applicant, its key raw materials suppliers and its major customers would be higher over the full duration of the agreement were the application to be granted than would otherwise be the case;
- 11.1.9. A decision in favour of the Applicant shall not result in a negative financial outcome for the applicable Licensee or Licensees relative to the situation that would have prevailed had the Application been rejected; and
- 11.1.10. [for Category 2 applications only] A risk assessment, carried out by a party independent of the Applicant, has confirmed the applicant's prognosis in respect of imminent closure or severe curtailment of operations.

11.2. Additional criteria

Where appropriate, NERSA shall take account of one or more of the following criteria when determining whether or not to approve applications –

- 11.2.1. Where there are multiple producers in SA of substantially similar products to the Applicant's, an assessment, carried out in accordance with sub-section 11.3 below, of the risk that such approval will distort competition amongst SA producers;
- 11.2.2. In instances where SA is a major producer, in global terms, of the product for which one or more Applications are under scrutiny, an assessment shall be carried out in accordance with sub-section 11.4 below, to determine net impact on the SA economy if incentive pricing were to be implemented;
- 11.2.3. [For Category 2 applications only] The perceived risk of the Applicant suffering business failure, notwithstanding approval of the application;
- 11.2.4. The projected net impact of approval of the application on SA's Balance of Payments; and/or
- 11.2.5. The Applicant's actual employment levels during the Pre-application Period compared to the level projected should the application succeed.

11.3. Potential distortion of competition

This sub-section 11.3 shall apply in instances where the Applicant competes with other SA businesses producing one or more substantially similar products to that of the Applicant, notwithstanding whether or not similar applications have been received from any of these competitors.

- 11.3.1. NERSA shall apply an “all or none” approach to the granting of incentive pricing to direct SA competitors, notwithstanding whether or not applications were received from all competitors.
 - 11.3.2. Account must be taken of the financial implications of granting incentives to consumers that did not make an Application and thus, by implication, are assumed to be able to afford tariff prices.
 - 11.3.3. In cases where applications have been received in respect of less than 75% of the SA capacity for a given range of substantially similar products, the Application shall be denied on affordability grounds.
 - 11.3.4. Where sub-section 11.3.3 above does not apply, a study, carried out or procured by the Processing Authority on behalf of NERSA, shall obtain data on the actual capacity utilisation levels of the Applicant and all its SA competitors over a 24-month period that shall include the most recent month for which data is available and identify, as best possible, the reasons for any under-utilisation of capacity during the period; and
 - 11.3.5. This study shall be used to establish the risk that approving incentive pricing for the Applicant and any of its SA competitors will change the competitive environment in relation to the product in question, to the detriment of the more cost-competitive producers.
 - 11.3.6. Where sub-section 11.3.3 above does not apply, NERSA shall take account of both sub-sections 11.3.2 and 11.3.5 above in reaching a decision.
- 11.4. Potential commodity price impact
- This sub-section 11.4 shall apply in instances where SA's output of the Applicant's product constitutes 15% or more of global output of the applicable product and substantially similar products.
- 11.4.1. A study, carried out or procured by the Processing Authority on behalf of NERSA, shall ascertain (as best possible) information regarding SA's market share of the applicable product over a 24-month period that shall include the most recent month for which data is available;
 - 11.4.2. This study shall be used to establish the risk that approving incentive pricing for the Applicant and its competitors will result in lower global prices for the applicable products for the duration of the contracts than would otherwise be the case;
 - 11.4.3. Should the risk level established per sub-section 11.4.2 appear significant, the Processing Authority shall assess – as best possible – whether SA's projected gross export revenue in respect of the product in question is likely to be higher with or without the approval of incentive pricing; and
 - 11.4.4. NERSA, in consultation with National Treasury, shall weigh the outcome of the assessment per sub-section 11.4.3 against the other economic benefits likely to accrue from implementing the incentive pricing before reaching a decision.

- 11.5. Should NERSA require additional information in order to successfully conclude its assessment in terms of this section 11, it may request such supplementary information from the applicable Processing Authority or procure it from other sources independent of the Applicant and, where applicable, its direct competitors.
- 11.6. Applications shall be assessed in the order in which they were received, provided that delays in obtaining all the information required in respect of any application shall result in the Assessment Authority proceeding with the processing of successive applications until all the required information has been received in respect of the first-mentioned application.

PROCESS

12. Applications

- 12.1. Applications for access to incentive pricing must be made by completing the most recent version of the specified Application Form.
- 12.2. Consumers supplied by Eskom should submit their applications to Eskom.
- 12.3. Consumers supplied by other Licensees should submit their applications to the applicable Licensee, which shall, in turn, submit them to Eskom.
- 12.4. All the applicable fields should be completed as specified on the Application Form, which must be accompanied by –
 - 12.4.1. The requisite supporting information as specified on the Application Form; and
 - 12.4.2. Declarations by the Chief Executive (or equivalent) in respect of –
 - 12.4.2.1. State incentive support received by the applicant within the past three years or approved for later distribution to the Applicant,
 - 12.4.2.2. Import duties currently levied on the product specified on the Application Form and
 - 12.4.2.3. Current or past investigations by the Competition Commission relating to the Applicant or its controlling shareholder.
- 12.5. Applicants must submit, along with the Application Form, a detailed motivation document, which shall incorporate at least the following –
 - 12.5.1. Details of proposed incentive package, including at least –
 - 12.5.1.1. Incentive package duration;
 - 12.5.1.2. Minimum Incentive Price for the current financial year and annual escalation;
 - 12.5.1.3. Interruptibility;
 - 12.5.1.4. Commodity Price Uplift mechanism (where applicable);

- 12.5.1.5. Take-or-pay level relative to anticipated total offtake (where applicable); and
- 12.5.1.6. Estimated contribution to fixed costs & EBIT at the proposed pricing level.
- 12.5.2. Corporate and market information in respect of the applicable product –
 - 12.5.2.1. Global and/or national ownership and structure;
 - 12.5.2.2. Location of major plant/s (including plants outside SA, where applicable);
 - 12.5.2.3. Employment levels per SA plant for the past three (3) years;
 - 12.5.2.4. Market/s served (i.e. customers, key value chains & geographic spread);
 - 12.5.2.5. Competitors located in SA & globally;
 - 12.5.2.6. Breakdown of estimated market shares in the local and global markets (as applicable);
 - 12.5.2.7. Where there are local competitors, an outline of the key similarities and differences in respect of the raw materials, processes and technologies used;
 - 12.5.2.8. Price setting mechanism & currency, 3-year price history and 2-3 year price & volume forecast (including the key assumptions used for the forecast); and
 - 12.5.2.9. Long-term prospects for market volume & price.
- 12.5.3. Costing and financial information –
 - 12.5.3.1. High-level breakdown of operating costs; with more detail in respect of the top cost categories, making up at least 60% of the operating cost (including electricity);
 - 12.5.3.2. Where raw materials are imported and/or product is exported, the average monthly ratio between import cost and export revenue;
 - 12.5.3.3. Information regarding approximate electricity prices paid by owned and/or competitor plants located outside SA;
 - 12.5.3.4. Estimated position on the global cost curve (per plant) and cost position relative to SA competitors (where applicable); and
 - 12.5.3.5. Audited financial statements for the past three (3) completed financial years.
- 12.5.4. Business case information –
 - Categories 1 and 2:
 - 12.5.4.1. Projected financial position for the next three (3) financial years (including the current year), with and without incentive pricing as requested (including key assumptions); and
 - 12.5.4.2. Economic and social impact assessment associated with reopening plant, e.g. jobs; regional impact; impact on up- and downstream industries; etc.
 - 12.5.4.3. Projected financial position for the next three (3) financial years (including the current year), with and without incentive pricing as requested (including key assumptions);

Category 1:

- 12.5.4.4. What are the prospects for reopening plant or utilising the unused plant without the requested incentive? Other steps taken, both internally and externally, to facilitate reopening of plant, e.g. cost restructuring, energy/electricity efficiency, product or market initiatives, other suppliers approached for incentive pricing, other parties approached for financial assistance and/or lobbying assistance (including responses to-date); and
- 12.5.4.5. The Applicant must submit an assessment carried out by an independent authority of standing to substantiate the information supplied in respect of sub-sections 12.5.4.1-12.5.4.4 inclusive.

Category 2:

- 12.5.4.6. Outline of anticipated closure/cutback schedule, with and without incentive pricing;
 - 12.5.4.7. Would potential closure/cutback be permanent? If not permanent, estimated date that reopening might be possible and circumstances that would facilitate such reopening;
 - 12.5.4.8. Other steps taken, both internally and externally, to avoid closure/cutback, e.g. cost restructuring, energy/electricity efficiency, product or market initiatives, other suppliers approached for incentive pricing, other parties approached for financial assistance (including responses to-date); and
 - 12.5.4.9. The Applicant must submit an assessment carried out by an independent authority of standing to substantiate the information supplied in respect of sub-sections 12.5.4.1-12.5.4.3 and 12.5.4.6-12.5.4.8, both inclusive.
- 12.6. Applications may be made in respect of multiple sites that produce a substantially similar product, provided that separate applications will be required where the applicable sites are served by different Licensees. In the event that application is made to more than one Licensee, as envisaged above, all the relevant Licensees must be advised accordingly.
- 12.7. Applicants that produce more than one product at the applicable site or sites must apply separately for each product for which the Applicant requires incentive pricing. In the event that multiple products are produced at a given site, as envisaged above, the Applicant must provide information in respect of the site's electricity supply and consumption for both the site as a whole and for the product for which the application is being made.
- 12.8. In instances where sub-section 12.7 applies and the Applicant is unable to substantiate the product-specific electricity figures with metered data records, the Applicant must submit a study carried out by an independent authority of standing to substantiate product-specific electricity usage data.

13. Processing of applications

All applications shall be processed, as outlined in this section 13: by the applicable **Processing Authority**: Eskom, if submitted in terms of sub-section 12.5 above; or the Licensee and Eskom (jointly), if submitted in terms of sub-section 1.1. above.

13.1. Applications shall be evaluated for completeness, failing which the Applicant shall be required to provide the details previously omitted before further processing.

13.2. Where possible, details provided by the Applicant shall be cross-checked against the Licensee's records and modified accordingly, in consultation with the Applicant.

13.3. A preliminary evaluation shall be carried out to establish whether, notwithstanding the completeness of the application, the information provided by the Applicant, together with information available from other sources, is sufficient to permit a proper assessment in terms of the STF criteria, failing which the Processing Authority shall obtain adequate supplementary information, either from the Applicant or from independent parties, at its sole discretion.

13.4. Once sufficient information has been made available, officials of the Processing Authority shall carry out a preliminary assessment in terms of the STF criteria, in consultation with the Applicant, as and when applicable.

13.5. Depending on the outcome of the preliminary assessment (per sub-section 13.4), the Processing Authority shall recommend to NERSA either that –

13.5.1. The Application be accepted; or

13.5.2. The Application be accepted in a modified form; or

13.5.3. The Application be rejected.

13.6. The Processing Authority shall inform the Applicant of its recommendation in respect of sub-section 13.4 above and the basis on which the recommendation was made.

13.7. In the event that the Processing Authority recommends rejection of the Application, the Application must be submitted to NERSA for Assessment nonetheless. In such cases, the Applicant shall have the right to petition NERSA directly and NERSA shall take account of such petition in reaching its final decision.

13.8. Submissions to NERSA from Applicable Licensees shall incorporate –

13.8.1. A recommendation in terms of sub-section 13.5 above;

13.8.2. The estimated financial impact on Applicable Licensees of a positive decision by NERSA; and

13.8.3. A risk assessment.

- 13.9. Applications shall be processed in the order in which they were received, provided that delays in obtaining all the information required in respect of any application shall result in the Processing Authority proceeding with the processing of successive applications until all the required information has been received in respect of the first-mentioned application.

14. Monitoring and reporting

- 14.1. The applicable Licensee shall record, after the end of each billing period, the additional sales achieved, the incentive price paid by the consumer and the value of the incentive received by each successful Applicant relative to standard tariff for the prior billing period; and
- 14.2. The applicable Licensee shall report to NERSA after the end of each calendar quarter, the additional sales achieved, the net incentive price paid by the consumer (including CPU and/or TOP adjustments, where applicable) and the net value of the incentive received by each successful Applicant relative to standard tariff for the prior billing period.