

**LEGAL NOTICE NO.      OF 2021**

**MINI-GRID POWER GENERATION, DISTRIBUTION AND SUPPLY  
REGULATIONS, 2021**

In exercise of the powers conferred on me by section 112 of the Lesotho Electricity and Water Authority Act, 2002<sup>1</sup>, I,

**MOHAPI MOHAPINYANE**

Minister responsible for energy and meteorology make the following regulations

**PART I: GENERAL PROVISIONS**

**Citation and commencement**

1. These Regulations may be cited as the Mini-Grid Power Generation, Distribution and Supply Regulations, 2021 and shall come into operation on the date of publication in the Gazette.

**Purpose of Regulations**

2. (1) The purpose of these regulations is to provide for-
- (a) the promotion, development and utilisation of mini-grid systems; and
  - (b) a regulatory framework for the development of Mini-Grids towards the achievement of the universal access to electricity.

**Application of Regulations**

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3. These regulations apply to-

- (a) the development and operations of all mini-grids with a Generation capacity of up to 2MW;
- (b) all other public or private stakeholders supplying electricity by mini-grids; and
- (c) any institution or agency as the case may be interacting with mini-grid owners, operators and users in Lesotho.

#### **Definitions**

4. (1) In these regulations, unless the context otherwise requires-

“**Act**” means the Lesotho Electricity and Water Authority Act 2002 as amended;

“**Annuity depreciation methodology**” means a method of depreciation whereby the annual depreciation plus return on the regulatory asset base is held constant, by treating the initial regulatory asset base as a loan value which is being paid off over time, with weighted average cost of capital functioning as the rate of return on the loan;

“**Applicant**” means a person submitting an application for any licence or modification or renewal under the Act, to the Authority;

“**Application**” means an application for a licence, or for a modification or renewal of a licence under the Act;

“**Authority**” means the Lesotho Electricity and Water Authority established under section 3 of the Act;

“**Community**” means a group of people within the same geographic location organized under a local leadership structure or a legally

recognised corporate entity and in both cases capable of entering into contracts and being capable of suing and being sued;

“**Concession area**” means an authorized area exclusively given to the Mini-Grid Licensee to set up and undertake a business venture to generate and distribute electricity to customers;

“**Distributed power**” means the electric power fed directly into a Distribution Network  
:

“**Distribution code**” means the code required to be maintained by a licensed distribution system operator pursuant to the terms of its licence which prescribes standard technical rules to be observed by all those connected to a distribution system for the connection to, the use and operation of that system;

“**Distribution Licensee**” means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in the approved area of supply;

“**Distribution network**” means the system which consists of wholly, or mainly of low voltage lines and electrical plant and which is used for conveying electricity from a substation to final consumers;

“**Distribution Network Operator**” means a network operator responsible for the operation of a Distribution Network;

“**Generation**” means the production of electricity to be fed into a Distribution Network or supplied to the consumer directly;

“**Generation capacity**” means the guaranteed active power that a generation plant can supply to a load or network at any point in time under the given environmental constraints (temperature, humidity, etc.) and a power factor of 0.8 (inductive) for at least one hour under the assumption that the plant is well maintained and fully functional;

**“Interconnected Mini-Grid”** means a Mini-Grid which is connected to the main-grid;

**“Isolated Mini-Grid”** means a Mini-Grid which is not connected to the main-grid

**“Licence”** means a licence granted by the Authority under the Act;

**“Main-Grid”** means integrated electricity transmission and distribution system currently owned and operated by Lesotho Electricity Company

**“Memorandum of agreement”** means a contract entered between the customer and the Mini-Grid licensee showing that all assets before the ready board belong to the Mini-Grid Licensee even though the customer paid for them;

**“Metering code”** means the code approved by the Authority for use in measuring the flow of energy within the transmission and distribution systems in the Electricity Supply Industry;

**“Mini-Grid”** means an electricity supply system, supplying electricity to more than one customer through a distribution network, and which can operate in isolation from or be connected to the main-grid. In these regulations, the term mini-grid is used for an isolated or interconnected mini-grid and where the mini-grid has generation facility, such facility should not exceed 2MW;

A mini-grid may be any one of the following:

- (a) isolated mini-grid; or
- (b) interconnected mini-grid.

**“Mini-Grid Licensee”** means an entity legally established which has been issued with a licence by the Authority to develop and operate Mini-Grid;

**“Regulated service”** means power generation, distribution and sales activities;

**“Small Power Distributor”** means an entity that distributes electricity generated to the end-users;

**“Small Power Producer”** means an entity that transfers distribution assets to the main grid operator and no longer sells at retail to villagers but retains generation assets and enters into a power purchase agreement or feed in tariff arrangement with the main grid operator

**“Technical codes”** means Grid Code, Distribution code; Metering Code, and other codes approved by the Authority for the technical regulation of the electricity supply industry;

- (2) Unless otherwise specified, in these regulations:
- (a) words importing any one gender includes the other gender and the singular includes the plural and vice versa;
  - (b) words or expressions used in these regulations but not defined shall have the same meanings respectively assigned to them in the Act;
  - (c) any reference to a statute or statutory provision includes a reference to that provision as amended, re-enacted or replaced and any regulations or orders made under such provisions from time to time; and

- (d) where the date on which an event is scheduled to occur by these Regulations is a day which is not a business day, then the event shall be deemed to occur on the next business day.

## **PART II: LICENSING PROCEDURES**

### **Manner of application**

5. (1) An application for a licence shall be made in writing, addressed to the Authority and delivered electronically, by hand, or by courier to the Authority at its headquarters or other address as the Authority shall designate for such purpose;

(2) An application shall be signed and dated by the authorized person or representative of the applicant.

(3) An application shall –

- (a) be in such a manner as the Authority may prescribe; and
- (b) be accompanied by a fee prescribed by the Authority.

(4) Application shall be addressed to the Chief Executive.

### **Application and grant of licence or registration for Mini-Grids**

6. (1) A person shall not develop or operate a mini-grid for the supply of electricity to any other person or persons in any part of the country unless the person supplying electricity holds a licence issued by the Authority.

(2) The Authority may grant a license or licence exemption to a person for the development and operation of a mini-grid upon submission of an application in the prescribed form to the Authority.

(3) A person who fails to comply with subregulation (1) above commits an offence and shall on conviction be liable to a fine not exceeding M25,000.00 or to an imprisonment term not exceeding 3 years or both.

#### **Acknowledgement of receipt of application**

7. (1) The Authority shall acknowledge receipt of a complete application for licence by the issuance of a letter of acknowledgement to the applicant and an electronic acknowledgement may also be sent by the Authority in addition to the letter of acknowledgement.

(2) The Authority shall send letters of acknowledgement within 10 days of receiving a complete application and letters of acknowledgement shall indicate the date on which the Authority received the application form.

#### **Additional information**

8. (1) The Authority may require the applicant to furnish additional documents to complete its licence application and shall notify the applicant in writing if the application is incomplete or if there is a need for additional information.

(2) Notification of an incomplete application or of the need for additional information shall include -

- (a) a description of the additional information required by the Authority; or
- (b) the period within which the additional information must be submitted.

(3) An application shall lapse if the applicant does not submit all required documents within period prescribed by the Authority in the request for additional information.

(4) An application is considered to have lapsed if all requirements are not met within a period of three months after the submission of the application, unless otherwise approved by the Authority.

(5) An application which lapses cannot be reactivated but may be resubmitted as a new application, upon payment of the prescribed application fee.

### **Decision of the Authority**

9. (1) The Authority shall within 90 days make a decision on the licence and notify the applicant of its decision in writing.

(2) The 90 days shall be considered to have commenced on the date the Authority received all the material information and documentation requested as part of the process for ensuring the completeness of the application.

### **Grant of licence**

10. Where the Authority grants the licence, the Authority shall inform the applicant in writing of the grant and the licence terms and conditions.

### **Refusal of licence**

11. (1) The Authority may refuse an application where –

- (a) the application or the information supplied with the application fails to meet the required criteria;
- (b) the Authority finds the information submitted to be false, invalid and or misleading;
- (c) the applicant has failed to produce, when requested, additional information, within the specified time.

(2) Where none of the conditions under subregulation (1) exist, the Authority shall only refuse the grant of a licence based on reasons relating to the financial, technical and managerial capability of the applicant and the negative



impact on the applicant's ability to render the service for which the licence is being sought.

(3) The applicant whose application for a licence was refused may approach the competent court of law or abbitrator in terms of the Act for review of the Authority's decision within 7 days of the receipt of the notification from the Authority about the refusal.

(4) The Authority shall consider any representations made and shall duly notify the applicant in writing of its decision within 7 days.

### **Suspension or cancellation of licence**

12. (1) The Authority may suspend or cancel a licence if satisfied that conditions under which the licence was granted had ceased to exist.

(2) The Authority may cancel or revoke a licence if the licence is declared insolvent by a competent court of law, voluntarily or judicial dissolution, applicable provisions of the Companies Act regarding dissolution.

(2)(3) The Authority may, before suspending or cancelling a licence, give written notice of its intention including the reasons to the licensee and may in the notice require the licensee to show cause in writing within 7 days of the notice why the licence should not be suspended or cancelled.

(3)(4) The Authority shall, after considering the explanation of the licensee, inform the licensee in writing of its decision within 15 days of receiving the explanation of the licensee showing cause why the licence should not be suspended or cancelled.

(4)(5) Where a licence is not utilized within one year from the date of issue, the licence shall be cancelled by the Authority by serving at least 30 days' notice on the licensee.

(5)(6) The Authority may, upon the suspension or cancellation of a licence, make such decisions regarding the undertaking of the licensee as are in the

opinion of the Authority necessary for maintaining continuity in the provision of the service rendered under the licence.

~~(6)~~<sup>(7)</sup> The Authority may require the licensee after cancellation of licence to decommission and remove the mini-grid assets within 6 months after cancellation of licence.

### **PART III: SPECIFIC REQUIREMENTS OF A LICENCE**

#### **Category I: Mini-Grids of less than 100kW of generation capacity**

13. (1) The Authority may grant a licence to a person to develop and operate a Mini-Grid of less than 100kW of generation capacity in a concession area in accordance with regulation 5 to 8 and upon the fulfilment of the following requirements:

- (a) submission of an application in the prescribed form to the Authority stating the intended area of operations and shall include the following information:
  - (i) name and address of the applicant;
  - (ii) entity registration documents;
  - (iii) description of the geographic area;
  - (iv) description of the generation and distribution infrastructures as appropriate;
  - (v) size of the generating facility;
  - ~~(vi)~~ submission of financial projections including disclosure of the source of funding for the project;
  - ~~(vi)~~<sup>(vii)</sup> a description of the generating technology that will be used; and

(vii)(viii) any other information as may be required or prescribed by the Authority.

(b) the Mini-Grid shall be inspected and certified by the Authority or a third party appointed by the Authority, before the commencement of commercial operations.

(2) Category I Mini-Grids shall apply tariffs which reasonably recover the costs of providing service to customers, including a reasonable return.

(3) A person who intends to install a Mini-Grid with a distributed power of less than 100kW may apply for a licence in accordance with regulation 5 to 8, following all procedures as described with all rights and obligations of a mini-grid licence holder as described in these regulations or register as a mini-grid licensee.

(4) Upon receipt of an application, the Authority shall acknowledge receipt within 10 days.

(5) The Mini-Grid shall be inspected and certified by the Authority or a third party appointed by the Authority, before the commencement of commercial operations.

(6) Notwithstanding regulation 14(1), the mini-grid licensee shall charge approved tariffs.

## **Category II: Mini-Grids from 100kW up to 1MW of generation capacity**

14. The Authority may grant a license to a person to develop and operate a mini-grid from 100kW up to 1MW of generation capacity in a concession area upon the fulfilment of the following requirements-

(a) submission of an application in the prescribed form, indicating whether the application is for a provisional licence in order to be granted exclusivity for the site while developing the project or a full licence for –

- (i) generation, or
- (ii) distribution and supply or for both, to the Authority stating the intended area of operations and shall include the following information-
  - (aa) name and address of the applicant;
  - (bb) entity registration documents;
  - (cc) description of the geographic area;
  - (dd) description of the generation and distribution infrastructures;
  - (ee) initial size of the generating facility;
  - (ff) a description of the generating technology that will be used;
  - (gg) environmental clearance;
  - (hh) proof of land use rights; and
  - (ii) any other information as may be required or prescribed in the guidelines issued by the Authority.
- (b) submission of an accurate description of the proposed generation or distribution system, including technical specifications and characteristics, detailed “to be built” drawings, cost estimates, geographical location;
- (c) submission of all other necessary permits granted to the applicant by the relevant agencies or institutions;

- (d) submission of all other requirements for the acquisition of a licence in accordance with procedures established for the granting of licences by the Authority;
- (e) submission of business plan;
- (f) submission of financial projections including disclosure of the source of funding for the project; and
- (g) any other information that the Authority may require.

**Category III: Mini-Grids larger than 1MW of generation capacity**

15. (1) The Authority may grant a license to a person to develop and operate a mini-grid larger than 1MW in accordance with the requirements as described in regulation 14.

(2) In addition to a similar licensing approach and requirements as for projects between 100kW and 1MW, the licensing conditions shall include –

- (a) the proposed tariff methodology applied by the mini-grid licensee, and the amendment of tariff applied under the project, shall be specified and approved under the allowed tariff approach or methodology set down by the Authority;
- (b) compliance with reporting obligations similar to main-grid activities;
- (c) inspections on receipt of complaints as well as periodic scheduled inspections;
- (d) procedures for settling consumer complaints which shall be approved by the Authority;
- (e) other conditions as the Authority may impose.

## PART IV: GENERAL CONDITIONS OF A LICENCE

### Technical requirements of a Mini-Grid

16. (1) A mini-grid licensee shall adhere to general conditions of a licence issued by the Authority including applicable technical standards.

(2) In complying with those conditions, a mini-grid licensee shall design, develop and operate a mini-grid in accordance with standards used for rural electrification schemes, standard specification for renewable energy technologies approved by the Authority and applicable International Electro-technical Commission (IEC) Technical Specification Series 62257 standards valid and prescribed at the time of development such that the system can be connected to the Distribution Network at a later date without major modifications.

### Obligations of the Mini-Grid licensee or licence exemption

17. (1) A mini-grid licensee shall develop and operate its distribution network in accordance with the relevant rules, regulations, codes and standards.

(2) A mini-grid licensee shall comply with the Act, terms and conditions of the licence or licence exemption, the rules and regulations, as well as the decisions, orders and directives of the Authority as applicable.

(3) Where a mini-grid licensee wishes to engage in other business other than licenced for under subregulation (1), a mini-grid licensee shall first seek the approval from the Authority.

(4) A mini-grid licensee who contravenes the provisions of subregulation (3) shall be fined by the Authority.

(5) A mini-grid licensee shall grant the Authority and its duly authorized representatives access to any facilities, assets or information that are relevant to fulfil the tasks assigned to the Authority under the Act and these regulations.

**PART V: OPERATION OF THE MINI-GRID REGULATIONS AND COMPLIANCE WITH THE DISTRIBUTION CODE**

**Inconsistencies between the Mini-grid regulations and the Distribution code**

18. Where there is any inconsistency between these regulations and the Distribution code, the provisions of the Distribution code shall prevail.

**Quality of service**

19. (1) A mini-grid licensee shall comply with all technical standards established by the Authority from time to time.

(2) A mini-grid licensee shall supply electricity in accordance with the agreement signed with the Authority.

(3) The power supply services provided by mini-grid licensees shall meet the requirements set by the Authority regarding power quality, power availability and power reliability, as well as accountability and performance reporting, where:

- (a) power quality is characterized by voltage imbalance, transients often caused by lightning, short and long duration voltage variations and frequency variations in mini-grids coupled on the AC-busbar, and resistive voltage drop, DC ripple, switching noise, transients and short and long duration voltage variations in mini-grids coupled on the DC-busbar;
- (b) power availability is defined by power draw, energy available and duration of daily service; and
- (c) power reliability is earmarked by the frequency and the duration of power outages.

**Health and safety**

20. (1) A mini-grid licensee shall apply safety guidelines as prescribed in the Distribution Code for the design, development, commissioning, operation and maintenance of their generation and distribution assets.

(2) A mini-grid licensee shall comply with the health and safety code as approved and amended from time to time by the Authority.

(3) A mini-grid licensee shall take reasonable steps in protecting persons and property from injury and damage that may occur as a result of carrying out the licensed activity.

(4) All equipment used and system designs shall comply with applicable national and international standards.

#### **Environmental protection**

21. Except as otherwise provided, a mini-grid licensee shall comply with the minimum environmental requirements prescribed by the Environment Act, 2008<sup>2</sup> or other environmental regulations and guidelines.

### **PART VI: GENERAL PROVISIONS FOR CONNECTION TO CUSTOMERS**

#### **Consumer service**

22. (1) A mini-grid licensee shall enter into Memorandum of Agreements with every customer who accepts to connect to the Mini-Grid.

(2) Compliance with the Metering Code (Lesotho Grid Code, 2015) shall be mandatory for all mini-grids.

(3) The mode of billing of consumers within mini-grids operated under a licence or licence exemption shall be described in the Memorandum of Agreement between the Mini-Grid Licensee and the customer.

(4) A mini-grid licensee shall file for approval by the Authority-



- (a) a Memorandum of Agreement defining the terms and conditions of the licensee's level of service to consumers as well as each party's rights and responsibilities; and
  - (b) such other agreement as may further explain and enhance understanding of consumers regarding the licensee's terms and conditions of service.
- (5) A mini-grid licensee shall-
- (a) post a notice in a conspicuous place in each business office of the licensee where applications or payments for service are received and inform the consumers about new tariffs; and
  - (b) provide consumers with information containing the following
    - 
    - (i) grounds for disconnection of service;
    - (ii) how the consumer's billing disputes can be resolved;
    - (iii) steps necessary to have service reconnected after disconnection;
    - (iv) appropriate place to register a complaint and how to contact them;
    - (v) means through which the bills may be paid, and how the tariff information may be obtained;
    - (vi) service standards as approved by the Authority; and

**PART VII: ARRIVAL OF THE MAIN-GRID UTILITY'S NETWORK  
TO AN AREA SERVED BY A MINI-GRID**

**Arrival of the Main-Grid**

23. (1) The main-grid utility shall not extend and connect its distribution network to an area served by a mini-grid.

(2) Where a main-grid utility extends and connects its distribution network to an area served by a mini-grid, a mini-grid licensee has the following options-

- (a) continue operation of the mini-grid without interconnection to the main-grid and no compensation;
- (b) become a Small Power Producer selling electricity to the main-grid operator;
- (c) become a Small Power Distributor that purchases electricity from the Main-Grid under a bulk supply tariff and then resells some or all of that electricity to his customers;
- (d) a combination of a Small Power Producer and Small Power Distributor; or
- (e) transfer all assets in return for financial compensation from the main grid utility before distribution grid arrival equal to—
  - (i) the residual value of privately financed assets;
  - (ii) the residual value of activated and amortised privately finance project development cost for the respective mini-grid site (as calculated according to the tariff setting methodology), plus;
  - (iii) the audited revenue that the mini-grid licensee generated from the mini-grid, commencing 12 months prior to the date of connection of the mini-grid to the main-grid utility's distribution network.

(3) Without prejudice to the options available under subregulation (2) above the mini-grid licensee may pursue the option of removing its distribution and generation assets, without receiving any compensation.

(4) The compensation under subregulation 2(e) shall be paid for distribution assets only if the distribution assets conform to applicable standards of the Authority at the time of transfer.

(5) (a) Where the parties fail to agree to the terms of the interconnection or compensation, the parties shall submit the matter to the Authority for final determination in accordance with its complaints procedure and in so doing the Authority may hire a third-party entity to assist it in making of the determination.

(b) The decision of the Authority shall be final and binding on the parties.

(6) The mini-grid licensee shall remove and recycle or dispose of the assets and equipment in an environmentally friendly manner in accordance with approved environmental management plan or legislation in place.

## **PART VIII: ACCOUNTS OF THE MINI-GRID LICENSEE**

### **Reporting requirements, inspection and audit of accounts**

24. The mini-grid licensee shall-

- (a) at all times charge the tariff approved by the Authority for electricity supply;
- (b) maintain separate accounting records of operations of the mini-grid including the business of utilizing the assets of a distribution licensee's network, in such form and containing such particulars as may be specified by the Authority and in accordance with the relevant accounting standards;
- (c) keep proper records with respect to the financial position and changes and cash flows therein and with respect to the control

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of and accounting for all property acquired by the licensee in such form as to enable financial statements which show true and fair view to be prepared in accordance with the Companies Act, 2011<sup>3</sup> and the International Financial Reporting Standards (IFRS) for each financial year comprising a profit and loss account and a balance sheet; and

- (d) cause the audit of the books of records and financial statements referred to in paragraph (c) in accordance with the Companies Act, 2011 and the IFRS and ensure that the accounting statements prepared in accordance with this subregulations are duly certified by an independent auditor in respect of each financial year, stating whether in the opinion of the auditor, the statement has been properly prepared and giving a true and fair view of the revenue, costs, assets, liabilities and reserves reasonably attributable to the business to which the statement relates.

### **Inspection of records**

25. (1) An inspector appointed by the Authority shall have the right to inspect the Mini-Grid and documents, and the licensee shall render necessary assistance in the course of inspection of its services.

(2) During inspection, an inspector may, amongst other things –

- (a) make copies or take extracts from any books of accounts or records kept by a licensee; and
- (b) inspect machinery, equipment, appliances, meters, fittings and apparatus.

(3) After inspection, the inspector shall write an inspection report which shall –

- (a) prescribe remedial actions and cure periods to the mini-grid licensee; and

(b) be made available to the mini-grid licensee.

(4) The mini-grid licensee shall have 5 working days to comment on the inspection report.

(5) Where upon inspection, the Authority concludes that a licensee has not complied with these regulations, the licence, the Act or other applicable law, the Authority may –

(a) take appropriate actions as provided in the licence; or

(b) take such other actions as it deems appropriate to protect the interest of the consumers.

**PART IX: TARIFF SETTING FOR MINI-GRID LICENSEES  
AND PRINCIPLES FOR DETERMINATION OF TARIFFS  
FOR MINI-GRID LICENSEES**

**Determination of tariffs and other charges**

26. (1) The Authority has the power to set or otherwise determine retail tariffs for electricity services.

(2) Tariffs shall be set and reviewed in accordance with the Lesotho Electricity Authority (Electricity Price Review and Structure) Regulations, 2009<sup>4</sup>.

(3) Notwithstanding subregulation (1) a mini-grid licensee may, in order to achieve commercial sustainability, and subject to the Authority's review and approval-

(a) propose retail tariffs for specific consumer categories that take into account the ability to pay of the respective consumers; and

(b) propose a retail tariff structure, including conventional kWh tariffs, flat rate tariffs, power tariffs or a combination of the above, based on the amount of electricity sold or the number of connections or the power provided or consumed, excluding

any technical losses of power generation, power distribution and metering.

(4) In making any determination on the setting of electricity retail tariffs for mini-grid licensees, the Authority will apply either the standard tariff determination methodology or such other methodology requested by the mini-grid licensee and approved by the Authority.

(5) The standard tariff determination methodology is applied by the Authority to determine the retail tariffs to be charged by mini-grid licensees based on costs related to private financing of –

- (a) the regulated services;
- (b) the sum of their operation costs;
- (c) depreciation on capital and capitalized cost;
- (d) specific reserves for repair, replacement and extension;
- (e) taxes; and
- (f) a reasonable return on the privately financed regulatory asset base that adequately reflects the risks faced by the mini-grid licensee.

(6) The tariff shall be calculated based on historic data for the last year and shall be applied in the current year.

(7) (a) notwithstanding the provisions of these regulations, cost-reflective does not imply that all booked costs are approved automatically. Also, the stated consumer demand is not accepted automatically.

(b) the Authority shall ensure that the proposed costs for the regulated service reflect prudently incurred costs at a reasonable level of efficiency and that the underlying

consumer demand is based on either verifiable data or reasonable demand projections based on verifiable data.

### **Tariff setting methodology for mini-grid licensee**

27. (1) The Authority shall use as the standard tariff determination methodology, a cost-of-service approach using a revenue requirement methodology in determining tariffs for mini-grid licensees.

(2) The revenue requirement methodology shall be framed on the principle that revenues of the mini-grid licensees shall be based on costs related to financing of the regulated services which are the sum of –

- (a) their operation costs;
- (b) depreciation on capital and capitalized cost;
- (c) reserves for repair and replacements;
- (d) taxes,
- (e) a reasonable return on the privately financed regulatory asset base that adequately reflects the risks faced by the mini-grid licensee; and
- (f) a performance related profit margin dependent on the quantity of electricity sold.

(3) A return on a grant financed activity or assets shall not be included in calculating the revenue requirement.

(4) The tariff shall be calculated based on historic data for the last year and shall be applied in the regulatory year except for the first tariff application for which projections based on reasonable assumptions shall be used.

(5) For the purpose of subregulation (2)-

- (a) operation and maintenance expenses shall include all expenditure just and reasonably incurred for the provision of regulated service, including but not limited to local operation cost, corporate overhead costs, special reserve for repair and replacement, fees and levies for public permits and licences, and auditing costs.
- (b) in special circumstances, the Authority may approve projections of costs instead of historical cost.
- (c) depreciation expense of the allowed revenue requirement shall be computed on the historical cost of the regulatory asset base using an Annuity Depreciation Methodology and return over the respective useful life of the asset or project. Project development cost shall be capitalized and amortized over the licence period.

#### **The general tariff terms**

28. (1) A tariff shall remain in effect until it is superseded by a new decision.

(2) The tariffs approved by the Authority may be lowered or its structure may be changed during the effective period after special approval from the Authority, in case it can be reasonably argued that the changes will be beneficial to the consumers.

(3) The Authority's decision to reject the tariff application shall be supported by the reasons in writing to the licensee.

**DATED:**

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**MOHAPI MOHAPINYANE**  
**MINISTER OF ENERGY AND METEOROLOGY**  
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<sup>1</sup> . Act No. 12 of 2002

<sup>2</sup> ~~Act No. ....of 2008~~

<sup>3</sup> . Act No. 18 of 2011

<sup>4</sup> ~~LN. No. of 2009~~

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