

# Annual Report 2020/21



**Mr Smunda Mokoena, Chairperson**  
**Advocate Nomalanga Sithole, CEO**  
**November 2021**

# PRESENTATION OUTLINE

## A. Executive Summary of detailed presentation

1. Introduction
2. Overview of performance in 2020/21
  - 2.1 Key achievements:
    - a) Regulatory activities
    - b) Transversal Regulatory activities
    - c) Organisational activities
    - d) Financial performance and brief synopsis
  - 2.2 Planned targets not met
  - 2.3 Auditor General of South Africa (AGSA) Report
3. Main challenges for the 2020/21 financial year
4. Support requested from the PCMRE in respect of identified regulatory challenges
5. Conclusion

***(detailed presentation is from slide 31-72)***

# 1. INTRODUCTION

## Introduction

- To gain a perspective on NERSA's performance in respect of its planned target – it should be borne in mind that NERSA's targets relates to -
  - the regulation of three energy industries, namely electricity, piped-gas and petroleum pipelines; and
  - cross-cutting regulatory and organisational functions
- NERSA's functions are grouped in the following programmes:
  - Programme 1: Setting and/or approval of tariffs and prices
  - Programme 2: Licensing and registration
  - Programme 3: Compliance monitoring and enforcement
  - Programme 4: Dispute resolution, including mediation, arbitration and handling of complaints
  - Programme 5: Setting of rules, guidelines and codes for the regulation of the three energy industries
  - Programme 6: Establishing NERSA as an efficient and effective regulator
- The above programmes are linked to relevant Government Medium Term Strategic Framework (MTSF) Priorities.

## **2. Overview of performance in 2020/21**

## Key achievements

1. The reporting period started with the nation-wide lockdown, which Government instituted as a critical measure to deal with threat of the COVID-19 pandemic.
  - The severe impact of COVID-19 on the economy of South Africa has required NERSA to focus more strongly on its role in advancing economic growth and social development within South Africa.
2. NERSA received an unqualified audit for the fifteenth time.
3. NERSA achieved 88% of its annual performance targets.
4. The implementation of the Annual Performance Plan was better in comparison to the previous year by 9%. In 2019/20 79% of the planned targets was implemented and in 2020/21 it was 88%. *(The target was to increase APP implementation by 4% for 2020/21 which has been exceeded by 2%).*
5. This above can be broken down as follows:
  - Regulation of the electricity industry: 86%
  - Regulation of the piped-gas industry: 92%
  - Regulation of the petroleum pipelines industry: 88%
  - Transversal regulatory: 75%
  - Organisational: 86%

## Regulatory activities (1)

### 1. Key achievements: Electricity Industry Regulation

- a) Announced the following:
  - Recovery of Eskom's Regulatory Clearing Account (RCA) applications for year 2, 3 and 4 in the third Multi-Year Price Determination (MYPD3) period and Eskom's supplementary tariff application for the 2018/19 financial year, during the 2021/22 financial year.
- b) Conducted 51 compliance audits.
- c) Approved the registration of 118 small-scale embedded generation facilities
  - This added a total of 53MW of capacity to the grid.
- d) Issued 5 new generation licences to Independent Power Producers (IPPs),
  - This will have a total capacity of 60MW.
- e) Closed 86% of the 355 complaints/disputes received within the targeted 180 days from receipt.
- f) Customer education was conducted through thirty-seven radio interviews, five customer education workshops and one customer education panel discussion at the Money Smart Week South Africa (MSWSA).



## Regulatory activities (2)

### 2. Key achievements: Piped-Gas Industry Regulation

- a) Rolled out the Risk Mitigation Independent Power Producers Programme (RMIPPP)
  - Selected several preferred bidders to participate in various gas-to-power projects.
- b) Approved the substitution of the Gas Act Rules, 2009 for the Gas Act Rules, 2021
  - Enhanced the regulatory regime in line with all relevant industry developments.
- c) Considered 6 applications for maximum prices under the new Maximum Price Methodology.

### 3. Key achievements: Petroleum Pipelines Industry Regulation

- a) Decision to set the Petroleum Pipelines System tariffs
  - Allowed Transnet SOC Limited ('Transnet') to realise a 11.15% decrease in Allowable Revenue.
- b) Approved 3 operation licence applications
  - 1 for a storage facility
  - 1 for a combined storage facility and pipelines
  - 1 combined licence for a storage and loading facility.



## Transversal Regulatory activities

### 1. Key achievements:

- a) Implementation of the second benchmarking study.
  - This entails the implementation of the 34 improvement opportunities identified and 18 good practices for the organisation as a whole.
- b) Facilitated the implementation of the financial information of the Regulatory Reporting Manuals (RRMs). The participation of licensees were as follows:
  - Eskom and six metropolitan municipalities
  - Five Piped-Gas licensees
  - Six Petroleum Pipelines licensees
- c) Facilitated the implementation of the pilot Non-Financial Information (NFIs) RRM. The participation of licensees were as follows:
  - Eskom, 24 municipalities and 31 IPPs
  - Eight Piped-Gas licensees
  - Petroleum Pipelines licensees have already been providing the data when the pilot was rolled-out.

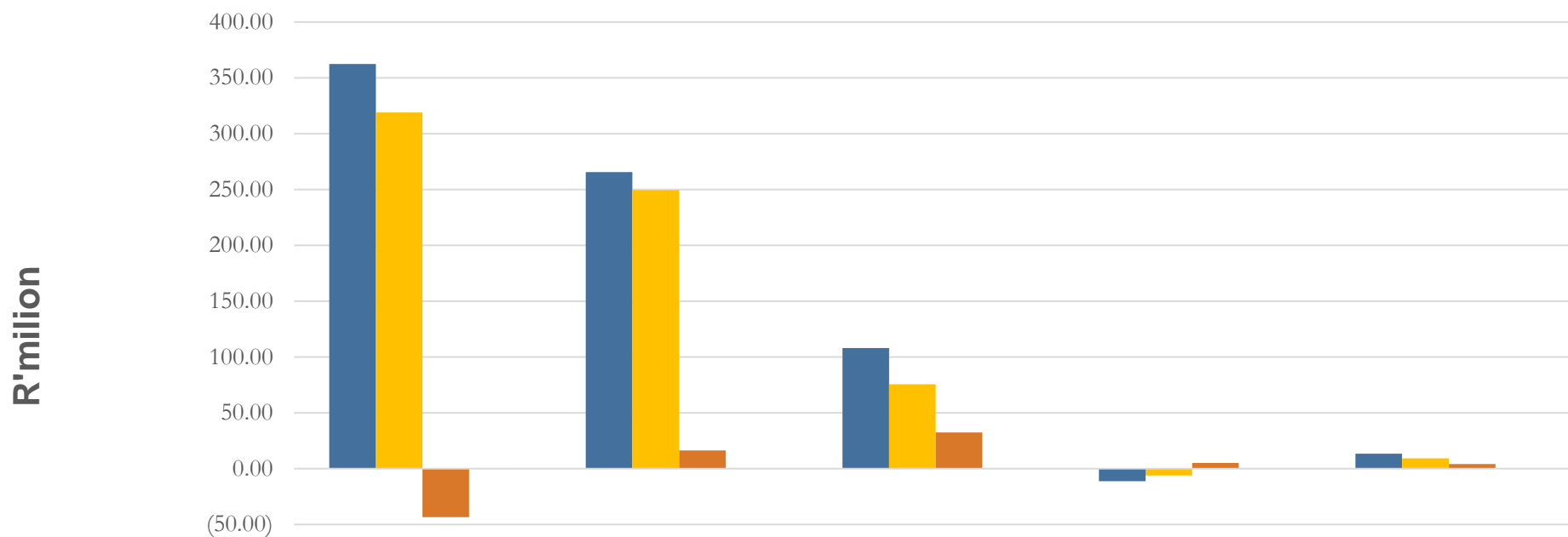
## Organisational activities (1)

### 1. Key achievements: Financial Management

- a) The COVID-19 pandemic impacted on the actual **reported volumes** – which were less than the estimates by 27% in the Petroleum Pipelines industry; 11% in the Electricity industry and 4.7% in the Piped-Gas industry.
- b) This led to a reduction in NERSA's expected revenue by 12% where **actual revenue** collected was R319 million against a budget of R362 million.
- c) **Expenditure** was contained in light of the economic circumstances
  - Cost savings against the budget amounted to 36% due to travel restrictions and restrictions of face-to-face engagements. Actual operating expenditure was R325 million against a budget of R374 million.
  - Capital expenditure was R9,2 million against a budget of R13,5 million. The underspending was due to delayed implementation of building refurbishments relating to safety and preventative maintenance.
- d) Reported an operating deficit of R5,3 million against a budgeted deficit of R11,2 million for the year. This is as a result of planned refunds of levies to the regulated industries from NERSA's accumulated surpluses.
- e) NERSA's **financial position** was maintained at a positive net asset value of R293 million of which R217 million is cash balances.
- f) NERSA received an **unqualified report** with findings. Findings related to differing views with AGSA on the disclosures in annual financial statements.

## Organisational activities (2)

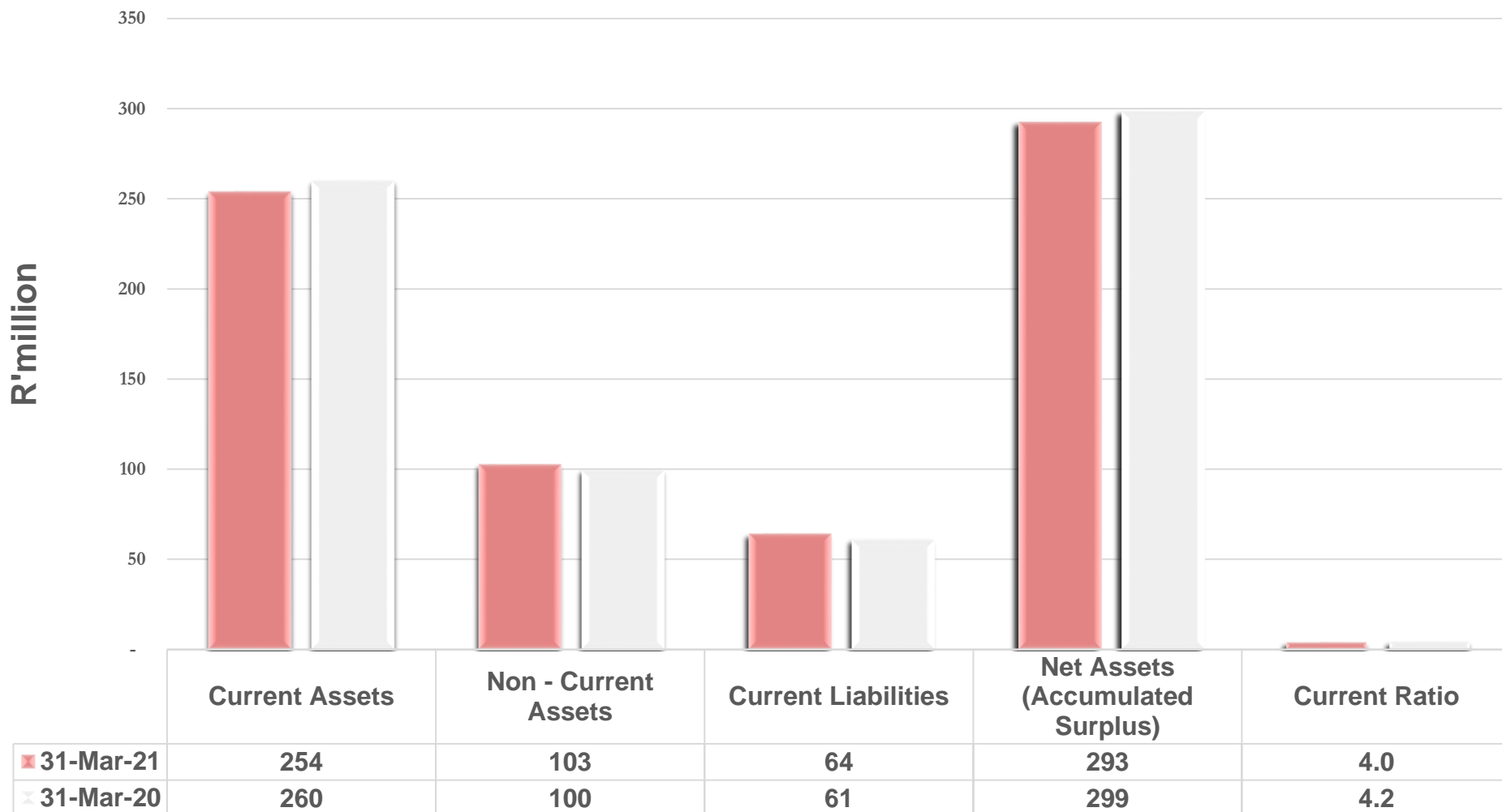
### Financial Performance for the year ended 31 March 2021



	REVENUE - LICENCE FEES & LEVIES	EMPLOYMENT COSTS	OTHER OPERATING COSTS	NET SURPLUS (DEFICT)	CAPITAL EXPENDITURE
■ BUDGET 2020/21	362.47	265.72	107.96	(11.21)	13.50
■ ACTUAL 2020/21	319.07	249.46	75.61	(5.99)	9.21
■ VARIANCE 2020/21	(43.40)	16.26	32.35	5.22	4.29
■ % VARIANCE 2020/21	(12.0%)	6.1%	30.0%	46.6%	31.8%

## Organisational activities (3)

### Financial Position as at 31 March 2021

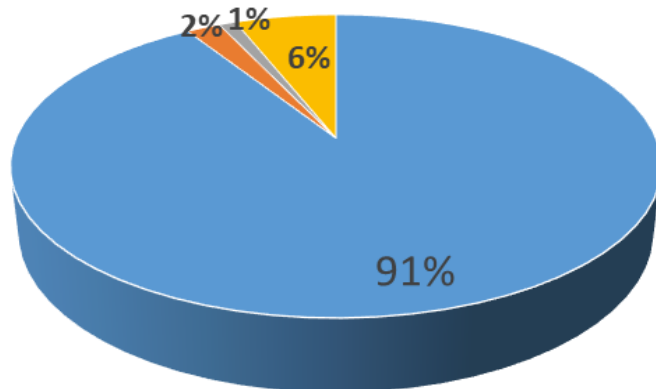


## Organisational activities (4)

### 2. Human Resource Management

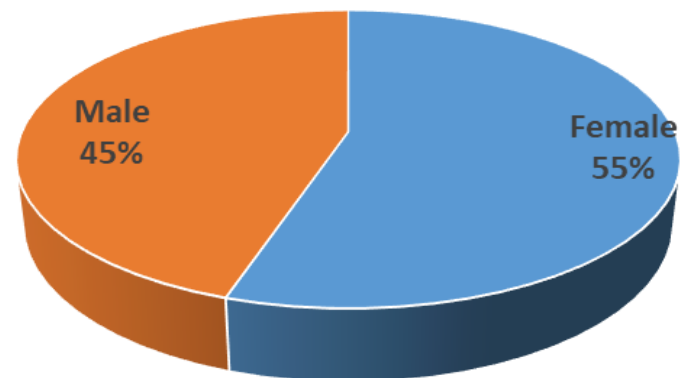
- a) Achieved a vacancy rate of 5.5% - which is the lowest vacancy rate since 2016/17.
- b) Staff strength = 239 employees (staff complement of 253)
  - 17 vacancies by the end of the review period
  - average employee turnover of 3.8%.
- c) Staff profile

**Demographic Profile**



■ African ■ Coloured ■ Indian ■ White

**Gender Profile**



■ Female ■ Male ■ ■

## **Organisational activities (5)**

### **2. Key achievements: Human Resource Management (continues)**

- d) Launched the first ever bursary programme
  - Aimed at funding deserving students who intend to pursue post graduate studies in areas that are of value to NERSA.
  - 3 students at post graduate level were awarded bursaries.
- e) Approved the flagship Youth Employment Strategy
  - Aimed at facilitating the integration of young people into the mainstream economic activities of the Energy sector
- f) Implemented NERSA's Learnership Programme
  - Provides an opportunity to attain a National Certificate: Energy Regulation NQF Level 5 – SAQA ID 63209.
  - 19 learners and interns participated - of which 12 were accommodated as learners in regulatory departments and 7 as interns in supporting departments.

## **Organisational activities (6)**

### **3. Key achievements: International coordination and partnerships**

- a) Continued to be an active member of the Regional Electricity Regulators Association (RERA) and the African Forum for Utility Regulators (AFUR).
- b) Participated in the online activities and programmes of the Regional Energy Regulators Association of Southern Africa (RERA) and the African Forum for Utility Regulators (AFUR).



## Planned targets not met (1)

### ELECTRICITY INDUSTRY REGULATION

Planned target	Reason for target not met	Solution
1. Energy Regulator Decision on the review of Eskom's RCA application for 2019/20 within 6 months after receipt of complete application	<p>The application from Eskom was only received in December 2020 due to the delay in the conclusion of their 2019/20 Audit.</p> <p>The turnaround time of 6 months falls within the first quarter of 2021/22. The decision was taken.</p>	Review the formulation of the target, taken into account the fact that NERSA is dependent on information from Eskom for this target.
2. One report on the proposed guidelines and benchmarks for 2021/22 considered by the ELS/REC within 3 months after the decision on the ERTSA	<p>The conclusion of the guidelines is dependent of the approval of the ERTSA for 2021/22. The Energy Regulator approved ERTSA in March 2021.</p> <p>The turnaround time of 3 months after the decision on the ERTSA falls within the first quarter of 2021/22. The report was considered.</p>	Review the formulation of the target, taken into account the fact that NERSA is dependent on information from Eskom for this target.

## Planned targets not met (2)

### ELECTRICITY INDUSTRY REGULATION (continues)

Planned target	Reason for target not met	Solution
3. One report on the calculation of the FBE Rate for the compensation of Eskom considered by ELS/ER within 2 months after the approval of ERTSA	<p>NERSA use Eskom data to determine the FBE rate each year and it awaits Eskom to send all the information after the year end 31 March each year.</p> <p>The information from Eskom was sent to NERSA on 10 May 2020, hence the approval was only in June 2020.</p>	Review the formulation of the target, taken into account the fact that NERSA is dependent on information from Eskom for this target.
4. One audit report on the review of the annual performance of IDM for 2019/20 considered by the ELS/REC/ ER within 180 working days after receipt of Eskom's IDM audited Annual Report	Eskom submitted IDM/DR Annual Report late in November 2020 instead of September as usual. This led to the delayed procurement of the service provider to conduct the IDM/DR audit for NERSA.	Eskom's IIDM department was requested formally to commit on issuing Annual Performance Reports by September annually.
5. One report on refurbishments and upgrades of electricity Infrastructure considered annually by the ELS by 31 March	The report could not be completed on time due to data collection challenges from municipalities. It will be submitted to the ELS for consideration by the end of the first quarter in the new financial year	Review the formulation of the target, taken into account the fact that NERSA is dependent on information from municipalities for this target.

## Planned targets not met (3)

### PIPED-GAS INDUSTRY REGULATION

Planned target	Reason for target not met	Solution
1. 100% of complete licence applications considered by the PGS/REC within 60 working days from date of close of public comment period or period of applicant's response to objections received	Two of the ten applications received had to be considered soon after the national-wide COVID-19 lockdown commenced. Meetings could not be held and this caused a delay in the approval process. These two applications were considered in more than the planned 60 working days.	Measures were put in place to ensure that NERSA's operations continued during the COVID-19 pandemic and by the end of the first quarter in 2020 the Regulator was fully functional.
2. 100% of complete applications for licence amendments considered by the PGS/REC within 60 working days from date of close of public comment period or period of applicant's response to Objections received	Four of the twenty applications received had to be considered soon after the national-wide COVID-19 lockdown commenced. Meetings could not be held and this caused a delay in the approval process. These two applications were considered in more than the planned 60 working days	

## Planned targets not met (4)

### PETROLEUM PIPELINES INDUSTRY REGULATION

Planned target	Reason for target not met	Solution
1. 100% of complete licence applications considered by the PPS/REC/ ER within 60 working days under the conditions as prescribed in Section 19(1) of the Petroleum Pipelines Act	One of the four applications received was considered in more than the 60 working days, due to the delays resulting from the COVID-19 national lockdown during Alert levels 5 and 4	Measures were put in place to ensure that NERSA's operations continued during the COVID-19 pandemic and by the end of the first quarter in 2020 the Regulator was fully functional.
2. 100% of complete applications for licence amendments / revocations considered by the PPS/REC/ ER within 60 working days under the conditions as prescribed in Sections 23 or 24 of the Petroleum Pipelines Act	Delays originated from the Covid-19 lock down level 5 and 4 period and 52 applications (48 of these were one joint application) were considered in more than 60 working days.	

## Planned targets not met (5)

### TRANSVERSAL REGULATORY AND ORGANISATIONAL (1)

Planned target	Reason for target not met	Solution
1. One report on the impact of global, regional and local energy trends on NERSA's business considered annually by the REC by 31 May 2020	The due date for this target was determined before the new submission date for Draft APPs changed from August to October. The Report was considered by the REC in the Third Quarter as part of the newly drafted Strategic Plan and Annual Performance Plan.	Review the formulation of the target, taken into account the new dates for the submission of the draft planning documents to the Minister.
2. Four reports on the progress made regarding certification with an appropriate International standard on quality management considered quarterly by the REC	One report could not be completed in time for the REC to consider.	Improved scheduling process for timeous submission of reports to the REC.

## Planned targets not met (6)

### TRANSVERSAL REGULATORY AND ORGANISATIONAL (2)

Planned target	Reason for target not met	Solution
3. Four reports on legislative and policy developments impacting on the Regulator considered quarterly by the REC	2 reports on legislative and policy developments impacting on the Regulator not considered by the REC due to the impact of the COVID-19 in the first quarter and due to the third quarter report that could not be completed in time for the REC to consider.	Improved scheduling process for timeous submission of reports to the REC.

## **Auditor General of South Africa (AGSA) Report**

1. NERSA's audit outcomes for the past 3 years are as follows:
  - a) Clean audit in the 2018/19
  - b) Unqualified audit with some findings in 2019/20 and 2020/21
2. Some of areas of concern relates to Supply Chain Management, Information Technology, Financial Management and Performance Information.

Action plans were put in place, and progress is reported on and monitored quarterly by the Audit and Risk Committee.



# **3. Main challenges for the 2020/21 financial year**

# ELECTRICITY INDUSTRY REGULATION

CHALLENGES	MITIGATION STRATEGIES
1. The high number of NERSA decisions challenged in High Court.	a) Legislation to be amended to provide for the utilization of alternative dispute resolution b) Utilisation of the Intergovernmental Relations Framework Act for amicable solutions (in the best interest of the parties and economy.)
2. Outdated Electricity Regulation Act and Pricing Policy, for example : <ul style="list-style-type: none"> <li>• Does not take into account demand side of electricity industry.</li> <li>• Increasing complexity of the ESI (More role players in industry i.e. SSEGs, Traders, IPPs and Prosumers)</li> </ul>	a) Review the Electricity Regulation Act and Pricing Policy that is Inclusive of the demand side of the Electricity Industry b) Alignment of ERA, MFMA and constitutional requirement of municipalities c) Registration conditions for SSEGs

## PIPED-GAS INDUSTRY REGULATION

CHALLENGES	MITIGATING STRATEGIES
<p>1. Limited mandate under the Gas Act, e.g:</p> <ul style="list-style-type: none"> <li>• There's no provisions for third party access to gas distribution facilities.</li> <li>• There's limited approach to regulation of gas industry</li> </ul>	<p>a) Expedite finalization of Gas Amendment Bill to</p> <ul style="list-style-type: none"> <li>• deal with current loopholes;</li> <li>• give NERSA sufficient regulatory powers</li> <li>• enable NERSA to regulate gas molecule and gas infrastructure efficiently and effectively (including LNG, regasification, distribution)</li> </ul>
<p>2. Decline of gas supply</p>	<p>a) Support government engagements to explore opportunities for gas supply from new gas finds in SADC and other countries on the continent</p> <p>b) Fast-track appropriate policy instruments and regulatory framework to enable Shale Gas, Brulpadda, Luiperd and other local gas sources as a long-term supply solution</p> <p>c) Fast-track process for harmonization of regulatory framework between SA and the SADC region and others countries on the continent</p>

## PETROLEUM PIPELINES INDUSTRY REGULATION

CHALLENGES	MITIGATING STRATEGIES
1. The Gaps with Petroleum Pipelines Act (Act No. 60 of 2003), for example: <ul style="list-style-type: none"> <li>• No legislative provision which empowers NERSA to register below bulk facilities.</li> <li>• Auxiliary pipelines are not included in the definition of pipelines</li> </ul>	<ul style="list-style-type: none"> <li>• Finalise the review of the Petroleum Pipelines Act and policies.</li> </ul>
2. Fragmented Regulation of the Petroleum Sector	<ul style="list-style-type: none"> <li>• Review of the legislation and policies</li> </ul>

## ORGANISATIONAL

CHALLENGES	MITIGATING STRATEGIES
1. Declining revenue	<ul style="list-style-type: none"> <li>• Increase cost containment measures</li> <li>• Invoking the legislated provisions for charging for dispute resolution and other services provided by the Regulator</li> <li>• Appropriation by Parliament as a last resort</li> </ul>

## **4. SUPPORT REQUESTED IN RESPECT OF IDENTIFIED REGULATORY CHALLENGES**

1. Finalisation of amendments of governing legislation and government policies relating to the three regulated industries – National Energy Regulator Act, Gas Act, Petroleum Pipelines Act, Electricity Regulation Act.
2. Streamlining of the regulation of the fragmented petroleum sector.
3. Investment in energy infrastructure.
4. More opportunities for continues engagement processes to improve regulatory and policy framework for the regulated industry (advocacy).

## **5. Conclusion**

- NERSA is thankful for the opportunity given to present its Annual Report for 2020/21.
- NERSA's performance and relevance are informed by the tangible impact, benefits and meaningfulness of its work for the citizens as well as the economy of our country.
- NERSA has, through regulation, facilitated the construction of power stations, pipelines and storage facilities to ensure continued access to energy and security of supply in the country. Therefore NERSA can be regarded as a key enabler in advancing economic growth and sustainable development within South Africa.
- To deal with regulatory challenges, NERSA has undertaken various initiatives to refine regulatory practices and methodologies in its quest to become a world-class leader in energy regulation and will continue to do so.



# Thank you

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## **B. Detailed presentation on organisational performance**

# **PRESENTATION OUTLINE**

## **Detailed presentation on organisational performance**

1. Strategic Imperatives
2. Service Delivery Environment
3. Corporate Governance issues
4. Performance in the 2020/21 financial year
5. Human Resource Management
6. International Activities
7. Financial performance
8. Main challenges for the 2020/21 financial year and corrective steps being taken
9. Conclusion

# 1. Strategic Imperatives

**VISION:**

***“To be a recognised world-class leader in energy regulation”***

**MISSION:**

***“To regulate the energy industry in accordance with government laws and policies, standards and international best practices in support of sustainable development”***

**IMPACT STATEMENTS**

**Electricity Industry Regulation**

Efficient, effective, sustainable and orderly development and operation of a competitive electricity supply industry in South Africa

**Piped-Gas Industry Regulation**

Efficient, effective, sustainable and orderly development and operation of a competitive piped-gas industry in order to enable efficient switching to and utilisation of gas in the economy

**Petroleum Pipelines Industry Regulation**

Efficient, effective, sustainable and orderly development and operation of a competitive petroleum pipelines industry

## **2. Corporate Governance issues**

# Introduction

- NERSA is committed to good corporate governance. Adopted the Corporate Governance Handbook containing corporate governance rules and prescripts.
- The provisions of the National Energy Regulator Act, 2004 (Act No. 40 of 2004), the PFMA and the principles contained in the King IV Report on Corporate Governance are included in the Corporate Governance Handbook to which NERSA adheres.
- NERSA ensures declaration of interest.
- In adhering to best practice and sound governance principles, the Energy Regulator subjects itself to an annual assessment on the effectiveness of the Energy Regulator and its committees.



## **Oversight**

The Parliamentary Portfolio Committee (PPC) on Energy has oversight of NERSA

## **Executive Authority**

The Executive Authority of the National Energy Regulator is the Minister of Energy.

The Energy Regulator submitted a number of documents to the Executive Authority, namely:

- The Annual Performance Plan (2021/22 – 2023/24) submitted by 31 January 2021 to the Minister of Mineral Resources and approval and tabling in Parliament.
- 4 quarterly performance reports submitted within prescribed timeframes
- The Annual Report (2019/20) was submitted to the Minister of Energy, the Minister of Finance and the Auditor-General by 16 November 2020.

## **Accounting Authority**

- The Energy Regulator, as the accounting authority, retains full and effective control over NERSA.

## **Energy Regulator subcommittees and committees**

- Regulatory Subcommittees – open to the public except where confidential matters are to be considered:
  - Electricity Subcommittee (ELS)
  - Piped-gas Subcommittee (PGS)
  - Petroleum Pipelines Subcommittee (PPS)
- Crosscutting Subcommittees – open to the public except where confidential, organisational or governance matters are to be considered:
  - Regulator Executive Committee (REC)
- Governance Committees – not open to the public:
  - Human Resource and Remuneration Committee (HRRC)
  - Finance Committee (FIC)
  - Finance Bid Adjudication Committee (FIC BAC)
  - Audit and Risk Committee (ARC)

## **Risk Management**

- In compliance with the requirements of the PFMA, the Energy Regulator approved a Risk Management Policy for the organisation.
- Progress made with mitigating the top 10 risks was reported in the quarterly performance reports.
- The Energy Regulator approved the following key documents for effective risk management:
  - Integrated Enterprise Risk Management Framework; and
  - NERSA's Risk Maturity Assessment and Implementation Plan.

## **Internal Audit**

- The Internal Audit Unit has completed all 34 audits planned for the period under review.

## **Compliance monitoring**

- In compliance with the requirements of the PFMA, the Energy Regulator approved a Compliance Monitoring Framework.
- Progress on implementation of legislation is monitored and reported in the quarterly reports.

## **Fraud and Corruption**

- A fraud policy and a fraud prevention plan are in place and were approved by the Energy Regulator.
- A fraud hotline is in place, which is operated by an external service provider and guarantees the anonymity of any person calling in to report suspected fraud, corruption or misuse of public resources.
- No cases of fraud were reported during the financial year.

## **3. Performance in the 2020/21 financial year**

- Overall Performance against planned targets
- Achievements against strategic outcomes are grouped as follows:
  - Electricity Industry Regulation;
  - Piped-Gas Industry Regulation;
  - Petroleum Pipelines Industry Regulation;
  - Transversal Regulatory; and
  - Organisational.
- Institutional response to the COVID-19 pandemic

## Overall Performance against planned targets

REGULATED INDUSTRIES AND OTHER FOCUS AREAS	PLANNED ANNUAL TARGETS		ANNUAL TARGETS MET		REASONS FOR ANNUAL TARGETS NOT MET			
					External Dependencies		Internal factors	
	2019/20	2020/21	2019/20	2020/21	2019/20	2020/21	2019/20	2020/21
Electricity	27	29	22 (81%)	25 (86%)	3 (11%)	3 (10%)	2 (7%)	1 (4%)
Piped-Gas	20	24	18 (90%)	22 (92%)	1 (5%)	2 (8%)	1 (5%)	0 (0%)
Petroleum Pipelines	11	17	11 (100%)	15 (88%)	0 (0%)	2 (12%)	0 (0%)	0 (0%)
Transversal Regulatory	9	4	6 (67%)	3 (75%)	2 (22%)	0 (0%)	1 (11%)	1 (25%)
Organisational	17	15	9 (53%)	13 (86%)	8 (47%)	1 (7%)	0 (0%)	1 (7%)
<b>TOTAL</b>	<b>84</b>	<b>89</b>	<b>66 (79%)</b>	<b>78 (88%)</b>	<b>13 (15%)</b>	<b>8 (9%)</b>	<b>5 (6%)</b>	<b>3 (3%)</b>

## Achievements: Electricity Industry Regulation (1)

Outcomes	Summary of performance
<p>Accessible and affordable electricity for all citizens</p> <p>Energy supply that is certain and secure for current and future user needs through the orderly development and operation of the electricity supply infrastructure</p>	<ul style="list-style-type: none"> <li>• 100% (175/175) complete tariff applications considered.</li> <li>• Decision that Eskom's Regulatory Clearing Account (RCA) applications for year 2, 3 and 4 the third Multi-Year Price Determination (MYPD3) period and Eskom's supplementary tariff application for the 2018/19 financial year of R4 749m and R1 288m respectively, will be recovered in the 2021/22 financial year.</li> <li>• 100% (12/12) of licence applications considered</li> <li>• 100% (21/21) of applications for amendment of licences considered</li> <li>• 100% (126/126) complete applications for registration of electricity generation facilities considered</li> <li>• 3 audit reports (one each for generation, transmission and distribution on the state of compliance with licence conditions) considered.</li> <li>• 2 System Adequacy Reports considered</li> <li>• 1 report on the analysis of Eskom's performance based on Regulatory Financial Reports (RFRs) considered.</li> </ul>

## Achievements: Electricity Industry Regulation (2)

Outcomes	Summary of performance
A regulatory environment that facilitates investment in electricity infrastructure	<ul style="list-style-type: none"> <li>• 1 report on the new entrants into the Electricity Supply Industry for the year 2020 was considered.</li> </ul>
Regulatory certainty within the electricity industry	<ul style="list-style-type: none"> <li>• Energy Regulator decision on the review of Eskom's submission on ERTSA for 2020/21.</li> <li>• 100% (3/3) of complete applications from the ESI requiring exemption to the South African grid code, considered.</li> <li>• 100% (3/3) of complete applications from the ESI requiring amendment to the South African grid code, considered.</li> <li>• 1 report on regulatory advocacy aimed at improvement of the regulatory framework provided through legislation, regulation and government policies considered.</li> </ul>



## Achievements: Piped-Gas Industry Regulation (1)

Outcomes	Summary of performance
Access to competitive gas prices and gas services	<ul style="list-style-type: none"> <li>• 100% (6/6) maximum price applications were considered.</li> <li>• 100% (6/6) of trading margin applications considered.</li> <li>• Reviewed framework for conducting adequacy of competition in the gas industry approved</li> </ul>
Efficient, sustainable and orderly development of the piped-gas industry aimed at security of supply	<ul style="list-style-type: none"> <li>• 100% (9/9) of licence applications were considered.</li> <li>• 100% (6/6) of registration application of gas activities were considered.</li> <li>• 80% (8/10) revocation/amendment applications were considered. The approval process in other revocation/amendment applications was delayed due to COVID-19 restrictions.</li> <li>• 1 report on compliance of ROMPCO pipeline considered.</li> <li>• 12 monthly piped-gas volume balance reports were considered.</li> <li>• 2 reports on compliance with licence conditions considered.</li> <li>• 1 Report on Regulatory Gaps regarding Third Party Access (TPA) to Infrastructure was considered.</li> </ul>

## Achievements: Piped-Gas Industry Regulation (2)

Outcomes	Summary of performance
A regulatory environment that facilitates investment in piped-gas infrastructure	<ul style="list-style-type: none"> <li>• 1 report on the implementation of the reviewed mechanism for enforcement of 3rd party access was considered.</li> <li>• The Gas Rules were amended to be up to date with industry developments</li> </ul>
Regulatory certainty within the piped-gas industry	<ul style="list-style-type: none"> <li>• 1 report on regulatory advocacy report entitled “Amendments to the Competition Act: Recommendations for alignment between the Gas Act and the Competition Amendment Act” to the DMRE was considered.</li> </ul>

## Achievements: Petroleum Pipeline Industry Regulation (1)

Outcomes	Summary of performance
Access to petroleum infrastructure	<ul style="list-style-type: none"> <li>• 2 report on trends regarding utilisation of storage facilities and third-party access, considered.</li> <li>• 90% (26/29) of storage, loading and pipelines facilities tariff applications were considered. The planned target was 75%.</li> </ul>
Efficient, sustainable and orderly development of a transformed petroleum pipelines industry aimed at security of supply	<ul style="list-style-type: none"> <li>• 75% (3/4) complete licence applications considered. 1 application was considered in more than the 60 working days due to the delays resulting from the impact of COVID-19 national lockdown during Alert levels 5 and 4 on business processes.</li> <li>• 10% (6/56) of complete applications for licence amendments / revocations was considered. Delays originated from the COVID-19 lock down levels 5 and 4 period impact on business processes and 52 applications (48 of these were one joint application) were considered in more than 60 working days under the conditions as prescribed in Sections 23 or 24 of the Petroleum Pipelines Act.</li> </ul>

## Achievements: Petroleum Pipeline Industry Regulation (2)

Outcomes	Summary of performance
A regulatory environment that provides regulatory certainty and facilitates investment in petroleum pipeline infrastructure	<ul style="list-style-type: none"> <li>• 1 report on regulatory advocacy aimed at improvement of the regulatory framework provided through legislation, regulation and government policies for the petroleum pipelines industry was considered.</li> </ul>
A competitive petroleum pipelines industry	<ul style="list-style-type: none"> <li>• 1 report on new entrants into the petroleum pipelines industry considered.</li> <li>• 1 report on the pipelines, storage and loading licences issued considered.</li> <li>• 1 report on the geographic spread of petroleum pipelines infrastructure considered</li> </ul>

## Achievements: Transversal regulatory

Outcomes	Summary of performance
<p>An enabling environment for the benefit of internal and external stakeholders with a skilled workforce that is empowered to work in a complex and ambiguous environment</p>	<ul style="list-style-type: none"><li>• 1 progress report on the implementation of the Regulatory Reporting Manuals regarding the Standard Chart of Accounts (SCOA) for the municipalities</li><li>• 2 reports on the implementation of the Regulatory Reporting Manuals for Non-financial and financial information</li><li>• 2 reports on partnership creation to position NERSA as a recognised regulator nationally, regionally and internationally</li></ul>

## Achievements: Organisational

Outcomes	Summary of performance
<p>An enabling environment for the benefit of internal and external stakeholders with a skilled workforce that is empowered to work in a complex and ambiguous environment</p> <p>Institutional response to the COVID-19 pandemic</p>	<ul style="list-style-type: none"> <li>• 2 reports on the implementation of the Employment Equity Plan</li> <li>• 50% of women in management positions</li> <li>• 2% of people with disabilities employed</li> <li>• Four reports on the implementation of the Youth Employment Accord considered quarterly by the HRRC</li> <li>• 1 report on the implementation of the Learnership and Internship Programmes was considered by the HRRC on 18 February 2021</li> <li>• 3 reports on the implementation of the bursary programme for qualifying external applicants</li> <li>• Approved Reviewed NERSA Enterprise and Supplier Development Strategy</li> <li>• 100% implementation of Preferential Procurement Policy Framework, with ≥84% procurement over R30 000 awarded to suppliers with a B-BBEE status level of 4 or better.</li> </ul>

## Institutional response to the COVID-19 pandemic

- Staff members and Energy Regulator members made individual contributions towards the Solidarity Fund to the amount of R64 497.60.
- The Energy Regulator approved proposed interventions to ignite economic growth post the COVID-19 pandemic for submission to the Department of Mineral Resources and Energy.
- NERSA's COVID-19 Business Continuity Response Plan was approved on 14 May 2020 and implemented through Guidelines on Health and Safety; Security and Operations.
  - These Guidelines were informed by the Regulations published in terms of the Disaster Management Act, 2002 and updated, if needed, when new Regulations were published.
  - Several protocols were also developed to guide NERSA staff members and keep them safe while continuing in the execution of their duties when working on site.
  - NERSA maintained a 100% compliance within 4 weeks after new Regulations were published.
- A representative COVID-19 Response Committee was appointed to coordinate and monitor the implementation of all the Guidelines and to report on a monthly basis to the Energy Regulator
- Information and Communication Technologies were successfully leveraged to ensure that most of NERSA business processes were adapted to be conducted virtually or online before the end of the first quarter of the reporting period.
- Staff members were enabled to remotely effectively by ensuring that all the hardware and software required to work remotely was made available to them.

# **4. Human Resource Management**



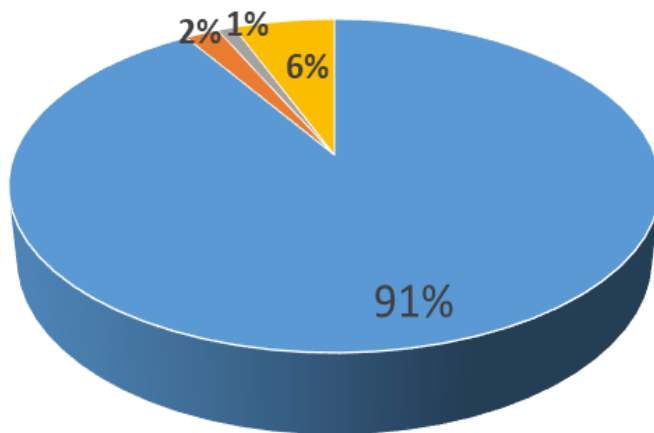
# Staff development

- A total of 65% of staff underwent training (both locally and internationally) .
- In the period under review, 12 learners were appointed to embark on NERSA's Learnership programme to attain a National Certificate: Energy Regulation NQF Level 5.
  - The programme prepares young graduates from further education and training institutions and universities for development of skills within the regulatory environment by providing theoretical and on-the-job training in order to create a pool of potential candidates for employment by the Energy Regulator.
- 12 interns were appointed and allocations were made across both the support and regulatory divisions.

## Staff Analysis

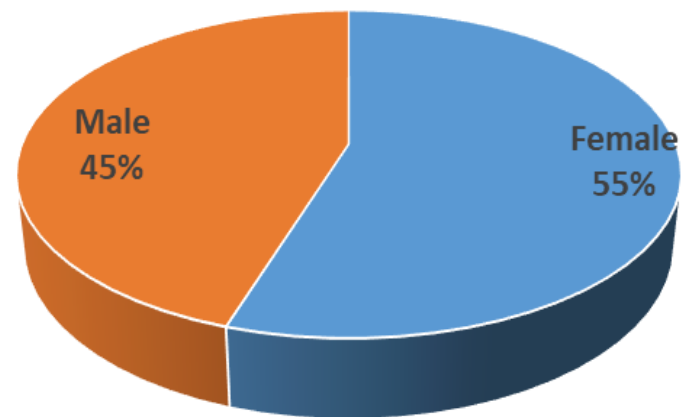
	2019/20	2020/21
<b>Total staff strength</b>	223	237
<b>Total staff complement</b>	253	253
<b>Vacancies</b>	30	16

**Demographic Profile**



■ African ■ Coloured ■ Indian ■ White

**Gender Profile**



■ Female ■ Male ■

## **5. International Activities**

## Regional Energy Regulatory Association of Southern Africa (RERA)

NERSA is a Member of the Executive Committee of RERA and chairs the following:

- Portfolio Committee on Energy Sector Policy, Legislation and Trade (PC–EPLT)
- Gas, Petroleum and Biofuels Subcommittee (GPBRS).

### RERA Objectives:

- Capacity Building and Information Sharing;
- Facilitation of Electricity Supply Industry Policy, Legislation and Regulations; and
- Regional Regulatory Cooperation.

### RERA Membership

- **Angola** - Institute for Electricity Sector Regulation (IRSE);
- **Botswana** - Botswana Energy Regulatory Authority (BERA)
- **Lesotho** - Lesotho Electricity and Water Authority (LEWA);
- **Malawi** - Malawi Energy Regulatory Authority (MERA);
- **Mauritius** - Utility Regulatory Authority
- **Mozambique** - National Electricity Advisory Council (CNELEC);
- **Namibia** - Electricity Control Board (ECB);
- **South Africa** - National Energy Regulator of South Africa (NERSA);
- **Eswatini** - Eswatini Energy Regulatory Authority (ESERA);
- **Tanzania** - Energy & Water Utilities Regulatory Authority (EWURA);
- **Zambia** - Energy Regulation Board (ERB); and
- **Zimbabwe** - Zimbabwe Energy Regulatory Authority (ZERA).

# African Forum For Utility Regulators (AFUR)

NERSA is a member of AFUR EXCO and Energy Sectoral Committee.

AFUR focuses on issues related to the regulation of the Energy, Telecommunications, Transport, Water and Sanitation Sectors

## **AFUR Objectives:**

- Information sharing;
- Capacity building; and
- Harmonisation of regulatory policies and legislation.

## **AFUR Membership**

Algeria	Ethiopia - observer
Mauritania	Uganda
Niger	Kenya
Mali	Tanzania
Senegal	Malawi
Gambia	Zambia
Burkina Faso	Zimbabwe
Cote d'Ivoire	Namibia
Ghana	Mozambique
Togo	South Africa
Nigeria	Lesotho
Cameroon	Rwanda
Angola - observer	
Benin	North Sudan - observer
DRC - observer	

# Co-operation with other global institutions / organisations

- RERA and AFUR continue to enjoy excellent working relationships and support from the:
  - African Union (AU);
  - SADC Secretariat;
  - Southern African Power Pool (SAPP);
  - International Confederation of Energy Regulators (ICER);
  - Council of European Energy Regulators (CEER);
  - Energy Regulators Regional Association (ERRA);
  - ECOWAS Regional Electricity Regulatory Authority (ERERA); and
  - Roundtable of Regional Energy Regulators Associations of Emerging Market.

# 6. Financial Performance

# Funding Methodology

In terms of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) NERSA derives its revenue by, among others, imposing prescribed levies on the regulated industries following a prescribed transparent procedure.

The following Acts govern the imposition of such levies:

- Gas Regulator Levies-Act, 2002 (Act No. 75 of 2002);
- Petroleum Pipelines Levies Act, 2004 (Act No. 28 of 2004); and
- Section 5B of the Electricity Act, 1987 (Act No. 41 of 1987).
  - **Electricity** industry is mainly funded through a levy levied on licensed electricity generators. The said levy is based on the estimated generation capacity.
  - **Piped-Gas** levy payable by users of pipelines (holders of the title to gas at the inlet flange).
  - **Petroleum pipelines** levy payable by users of the pipelines (holders of the title to petroleum at the inlet flange).



## **Funding Methodology (continued)**

- Costs for industry-specific regulatory functions are ring-fenced.
- Costs that cannot be directly attributed to an industry-specific regulatory function, but are incurred as common costs in order to support the three industry-specific regulatory functions, are allocated between the three industry-specific regulatory functions using the following ratio proportionate to the approved staff complement attributable to the industry-specific function:
  - 58% for the electricity industry regulation;
  - 21% for the petroleum pipeline industry regulation; and
  - 21% for the piped-gas industry regulation.

# Funding of NERSA

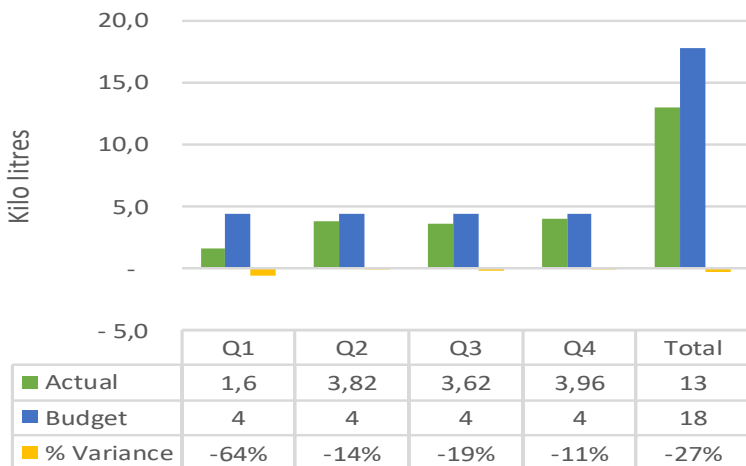
## Electricity (MWh)



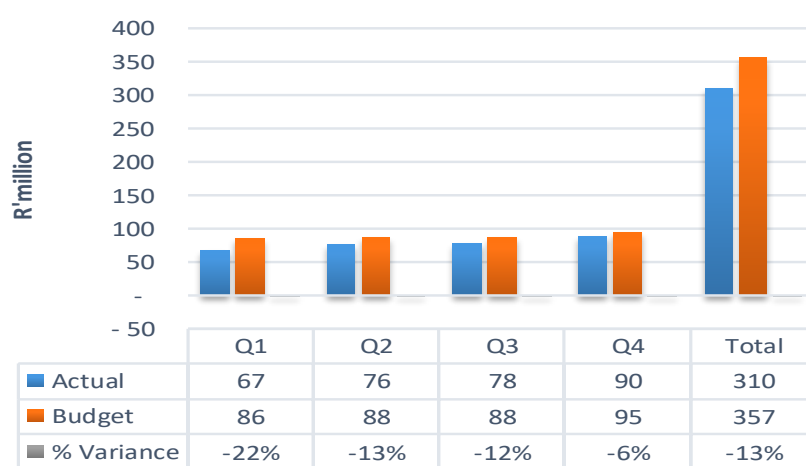
## Piped-Gas (GJ)



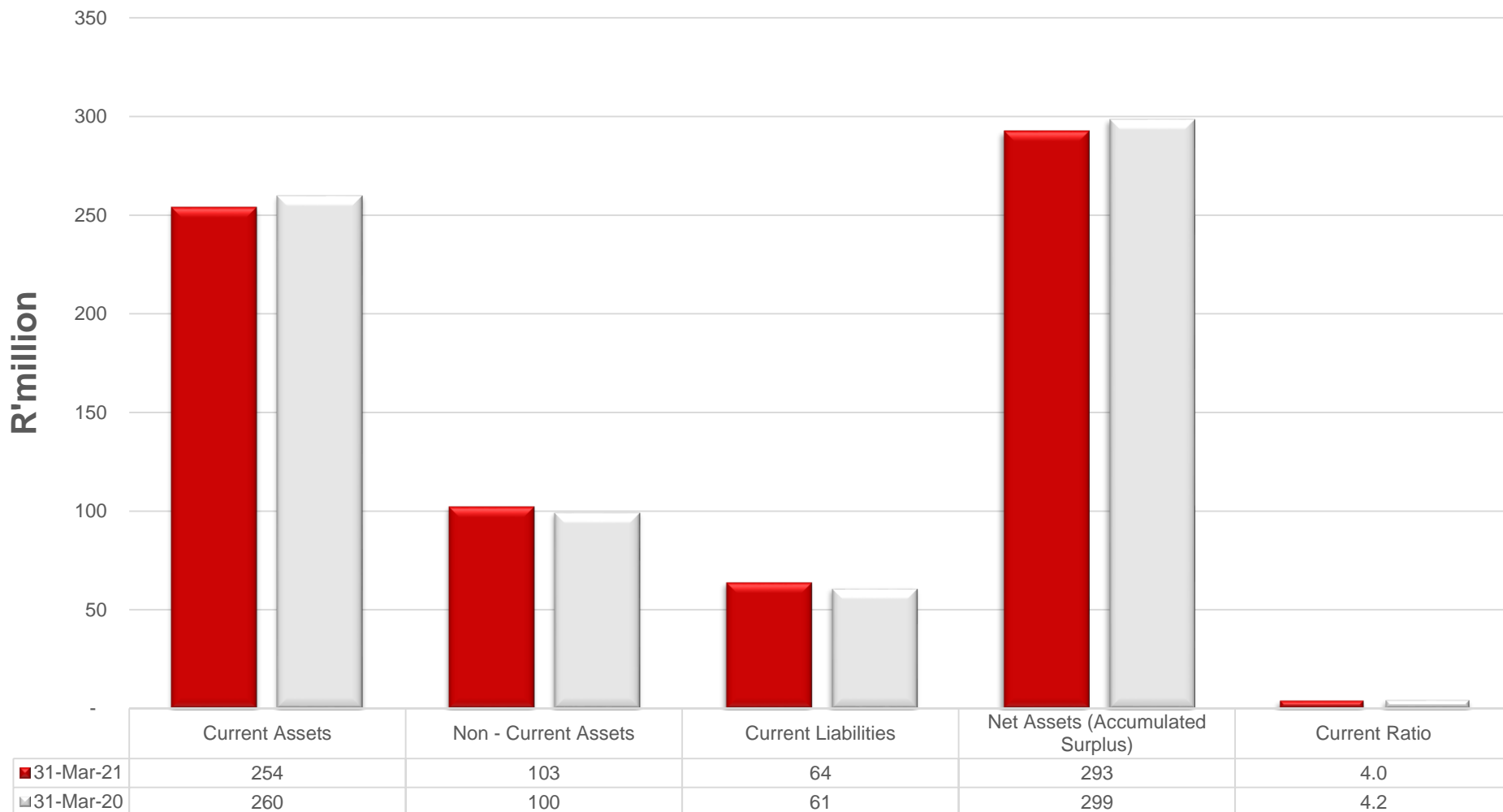
## Petroleum Pipelines (Kilo litres)



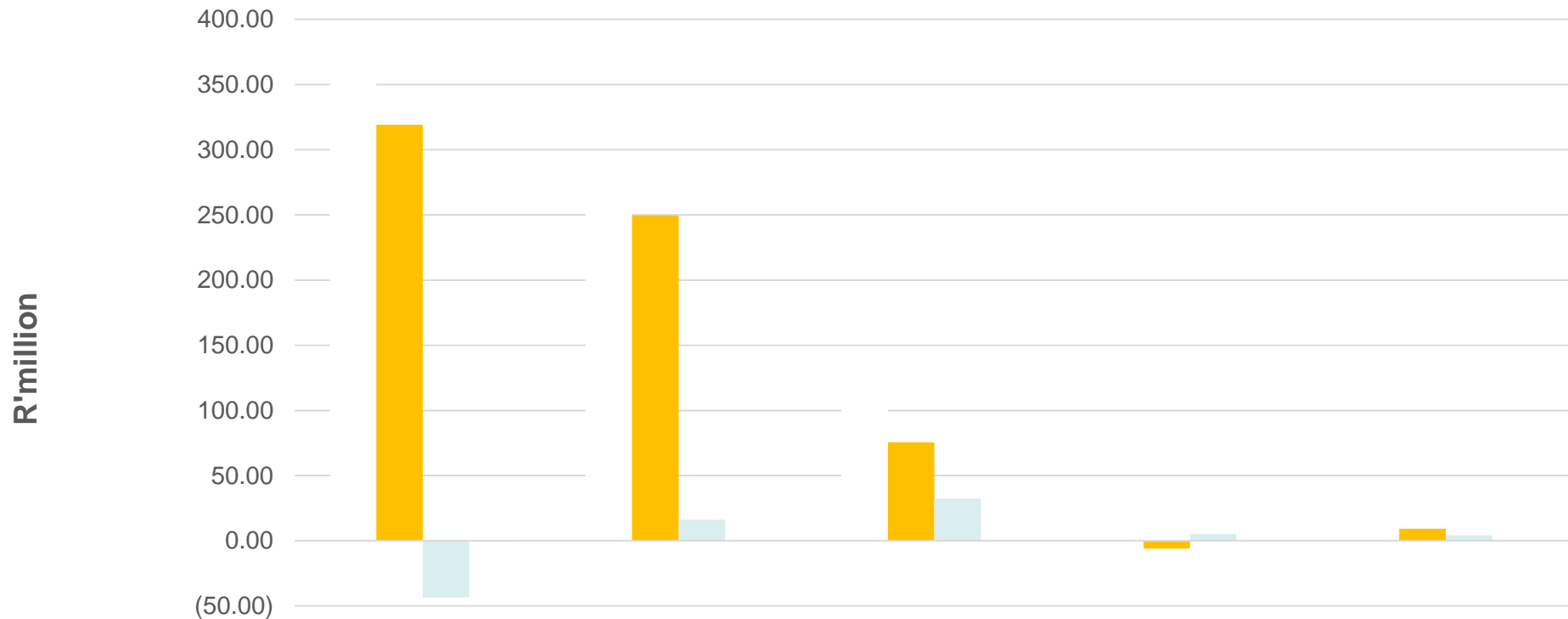
## Total Revenue



# Financial Position as at 31 March 2021



# Financial Performance for the year ended 31 March 2021



	REVENUE - LICENCE FEES & LEVIES	EMPLOYMENT COSTS	OTHER OPERATING COSTS	NET SURPLUS (DEFICT)	CAPITAL EXPENDITURE
BUDGET 2020/21	362.47	265.72	107.96	(11.21)	13.50
■ ACTUAL 2020/21	319.07	249.46	75.61	(5.99)	9.21
■ VARIANCE 2020/21	(43.40)	16.26	32.35	5.22	4.29
■ % VARIANCE 2020/21	(12.0%)	6.1%	30.0%	46.6%	31.8%

# Irregular Expenditure as at 31 March 2021

<b>Irregular Expenditure</b>	<b>2021</b>	<b>2020</b>
Opening Balance	5 487 622	4 935 109
Current year under determination	536 190	552 513
	<b>6 023 812</b>	<b>5 487 622</b>

<b>Details of Irregular Expenditure</b>	<b>2020</b>
Misintepretation in the use of single sourcing vs sole sourcing procurement method	190 067 -
Non compliance with SCM Regulations on extension of contracts	346 123 552 513
	<b>536 190 552 513</b>

# **F. Main challenges for the 2020/21 financial year and corrective steps being taken**

## Key Challenges impacting on NERSA's performance (1)

Challenge	Mitigating strategy
Amending the enabling legislation (Act and Regulations) to also take into account the changing energy landscape	Regulatory advocacy with DMRE in terms of the proposed changes as per the PPR Roadmap
Regulatory uncertainty	Amendment of Petroleum Products Amendment Act relates to the first challenge
Fragmented Regulation	DG formed a DMRE and NERSA task team to address the landscape changes in the petroleum industry
Lack of adequate provisions in the current Gas Act e.g. definition of gas, no provisions for TPA to distribution facilities	Expedite finalization of Gas Amendment Bill
Incomplete information in licence applications	Pre-licensing meetings with prospective applicants to clarify application requirements before submission of licence applications
Lack of co-ordinated approach to infrastructure development - Hampers orderly development of the gas market	Finalize development of the Gas Master Plan which maps the medium to long-term gas supply and demand profile for the country.

## Key Challenges impacting on NERSA's performance (2)

Challenge	Mitigating strategy
Impact of the lockdown on all NERSA's processes and operations	<ul style="list-style-type: none"> <li>• Deploying of on-line technologies and review of key HR policies</li> </ul>
Inadequate IT Systems and business processes that do not improve the performance	<ul style="list-style-type: none"> <li>• Developed NERSA's COVID-19 Business Continuity Response Plan</li> <li>• Established the COVID-19 Response Committee to coordinate the implementation of the COVID-19 Business Continuity Response Plan through implementation guides on Health and Safety; Security of NERSA's Information and Assets as well as Operations.</li> <li>• Developed and commenced with the roll out of a comprehensive ICT Strategy.</li> </ul>
Decline in actual reported volumes in all three industries as a direct result of national lockdown restrictions that had an impact on revenue collection.	<ul style="list-style-type: none"> <li>• Utilised accumulated surpluses to cushion impact on revenue shortfall, in addition to realised cost savings from travelling and meeting costs. Revised volume projections to conservative levels for the 2022 budget year in agreement with licensees and reduced non-core expenditure requirements.</li> </ul>
Impact of COVID pandemic and related restrictions on engagement with international stakeholders	<ul style="list-style-type: none"> <li>• All engagements have been held online.</li> </ul>



# **G. CONCLUSION**

- NERSA is thankful for the opportunity to present its Annual Report for 2020/21.
- NERSA's performance and relevance are informed by the tangible impact, benefits and meaningfulness of its work for the citizens as well as the economy of our country.
- NERSA has, through regulation, facilitated the construction of power stations, pipelines and storage facilities to ensure continued access to energy and security of supply in the country. Therefore NERSA can be regarded as a key enabler in advancing economic growth and social development within South Africa.
- To deal with regulatory challenges, NERSA has undertaken various initiatives to refine regulatory practices and methodologies in its quest to become a world-class leader in energy regulation and will continue to do so.
- NERSA is a viable entity and is still operating as a going concern.

# Thank you

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