

Annual Report 2021/22



Adv. Nomalanga Sithole
Chief Executive Officer
11 October 2022

PRESENTATION OUTLINE

A. Executive Summary of detailed presentation

1. Introduction
2. Overview of performance in 2021/22
 - Key achievements
 - Regulatory activities
 - Organisational activities
3. Main challenges for the 2021/2 financial year
4. Conclusion

B. Detailed presentation on organisational performance (from slide 24)

A. Executive Summary of detailed presentation

1. INTRODUCTION

Acknowledgements

1. The NERSA Annual Report for the period ended 31 March 2022 is dedicated to the former and late Chairperson of the NERSA Board Mr Smunda Mokoena, who sadly passed on the 17th of March 2022 and to the late Ms Maleho Nkomo, the former Deputy Chairperson who also passed on in July 2021. May their souls rest in peace.
2. We also welcome the appointment of the Chairperson of the Energy Regulator, Mr Thembani Bukula and three members, Ms Precious Sibiya, Ms Thembeke Semane and Mr Fungai Sibanda, as Part-Time Regulator Members, as well as the appointment of Ms Zandile Mpungose as Deputy Chairperson.

2. Overview of performance in 2021/22

Introduction

1. 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 -
 - a) the regulation three energy industries, namely electricity, piped-gas and petroleum pipelines; and
 - b) cross-cutting regulatory and organisational functions
2. NERSA's functions are grouped in the following programmes:
 - a) Programme 1: Setting and/or approval of tariffs and prices
 - b) Programme 2: Licensing and registration
 - c) Programme 3: Compliance monitoring and enforcement
 - d) Programme 4: Dispute resolution, including mediation, arbitration and handling of complaints
 - e) Programme 5: Setting of rules, guidelines and codes for the regulation of the three energy industries
 - f) Programme 6: Establishing NERSA as an efficient and effective regulator

Key achievements – Summary

1. NERSA received a clean audit.
2. NERSA achieved 90% of its annual performance targets. This signifies an overall increase of 1% in the performance when compared to the overall performance in 2020/21.
3. The above achievement can be broken down as follows:
 - a) Regulation of the electricity industry: 84%. This signifies a 9% decrease in the performance when compared to 2020/21, where 93% of the planned targets were met.
 - b) Regulation of the piped-gas industry: 100%. This signifies an 8% increase in performance when compared to 2020/21, where 92% of the planned targets were met.
 - c) Regulation of the petroleum pipelines industry: 100%. This signifies a 12% increase in performance when compared to 2020/21, where 88% of the planned targets were met.
 - d) Transversal regulatory: 75%. This performance is at the same level when compared to 2020/21, where 75% of the planned targets were also met.
 - e) Organisational: 88%. This signifies an increase of 8% in performance when compared to 2020/21, where 80% of the planned targets were met.
4. The overall improvement in this reporting period is due to the fact that all the measures that were put in place in 2020, to deal with the impact of the restrictions due to the COVID-19 pandemic, have been implemented successfully. This enabled NERSA to continue with its day to day and regulatory activities as normal as possible. The decrease in the performance in electricity regulation was due external factors, such as timely submission of applications and reports from licencees or dependencies on other key roles players for progressing with key targets.

Key achievements – Regulatory activities (1)

A. Electricity Industry Regulation

1. Approved the following:
 - a) Eskom's revenue application for year 1 of MYPD 5
 - b) Eskom Retail Tariff and Structural Adjustment Application (ERTSA) application for 2022/23.
 - c) 175 municipal tariff applications
 - d) 39 new licence applications for electricity generation facilities
 - e) Registration of 310 electricity generation facilities – adding 154MW to the grid and resulting in investment of R2,159 billion.
2. NERSA's concurred with a ministerial determination in February 2022. This decision took the renewable energy capacity allocation
3. Considered the following:
 - a) 1 report on the analysis of Eskom's performance based on Regulatory Financial Reports (RFRs)
 - b) 3 compliance audit reports (one each for generation, transmission and distribution) on the state of compliance with licence conditions
 - c) 1 audit report on the annual performance of IDM for 2020/21
 - d) 2 monitoring reports on the performance and progress of Renewable Energy projects for 2022/23

Key achievements – Regulatory activities (2)

B. Piped-Gas Regulation

1. Approved the following:
 - a) 5 applications for maximum prices.
 - b) 12 licence applications
 - c) 8 registration applications of gas activities
2. Considered the following:
 - a) A Report on Regulatory Gaps regarding Third Party Access (TPA) to Infrastructure
 - b) 6 monitoring reports per licensee on the implementation of Maximum Prices

C. Petroleum Pipelines Regulation

1. Approved 63 storage, loading and pipelines facilities tariff applications
 - a) 59 for storage facilities
 - b) 2 for petroleum pipelines tariff
2. Approved 4 licence applications
 - a) 2 to construct a petroleum storage facility
 - b) 1 to construct petroleum pipelines
 - c) 1 to operate a storage facility
3. Considered 2 reports on trends regarding utilisation of storage facilities and third party access

Key achievements – Organisational activities (1)

A. FINANCIAL MANAGEMENT

1. Revenue Performance

- a) Volumes reported for the year ending 31 March 2022 in all three regulated energy industries came in above estimates, as economic activity picked up with the easing of lockdown and travel restrictions:
 - Electricity volumes were 4.7% above Budget
 - Piped-gas volumes were 3.4% above Budget and
 - Petroleum pipelines were at 6.9% above Budget.
- b) The improvement in volumes contributed to an over recovery in revenue from levies and license fees by 3.1%.

2. Operating Expenditure

- a) Operating expenditure for the year ending 31 March 2022 was 30% lower than the budgeted expenditure due to the continued remote working and online engagements throughout the year which resulted in a significant reduction in travel and meeting costs.

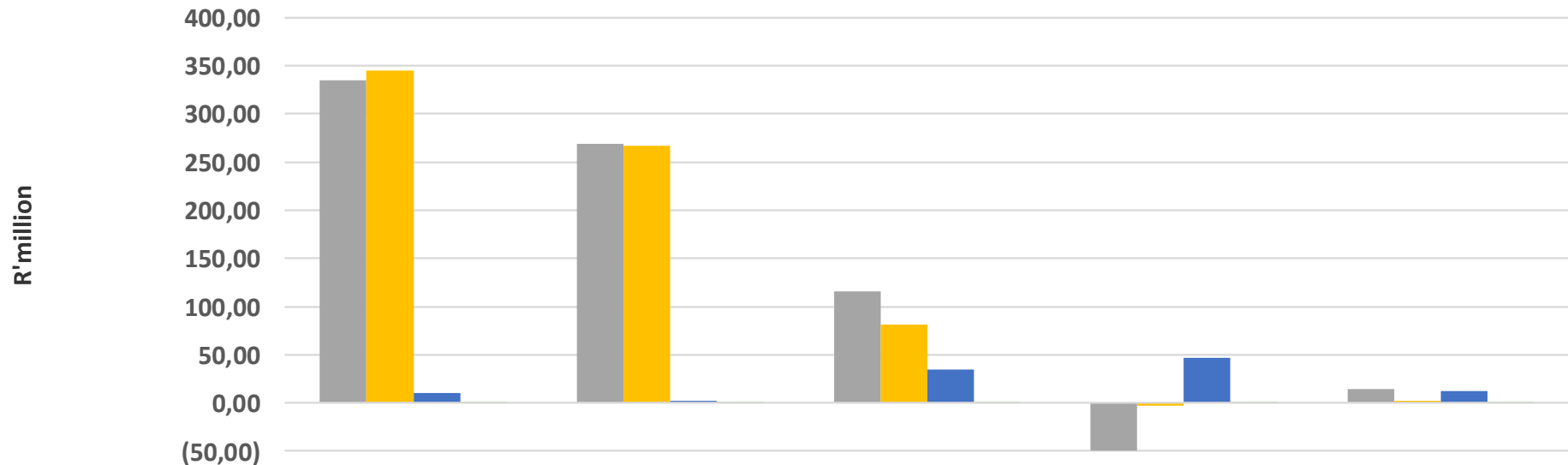
3. Utilisation of Accumulated surpluses

- a) NERSA reported a deficit of R 3.25 million against a budgeted deficit of R 49.2 million. The budgeted deficit is funded from accumulated surpluses from previous financial years. This enables the reduction of the funding requirement for NERSA when determining the levy rates and license fee

Key achievements – Organisational activities (2)

A. FINANCIAL MANAGEMENT

4. Financial Performance - Year ended 31 March 2022



	REVENUE - LICENCE FEES & LEVIES	EMPLOYMENT COSTS	OTHER OPERATING COSTS	NET SURPLUS (DEFICT)	CAPITAL EXPENDITURE
■ BUDGET 2021/22	334,56	268,85	115,63	(49,92)	14,00
■ ACTUAL 2021/22	344,88	266,78	81,35	(3,25)	2,09
■ VARIANCE 2021/22	10,32	2,07	34,28	46,67	11,91
■ % VARIANCE 2021/22	3,1%	0,8%	29,6%	93,5%	85,1%

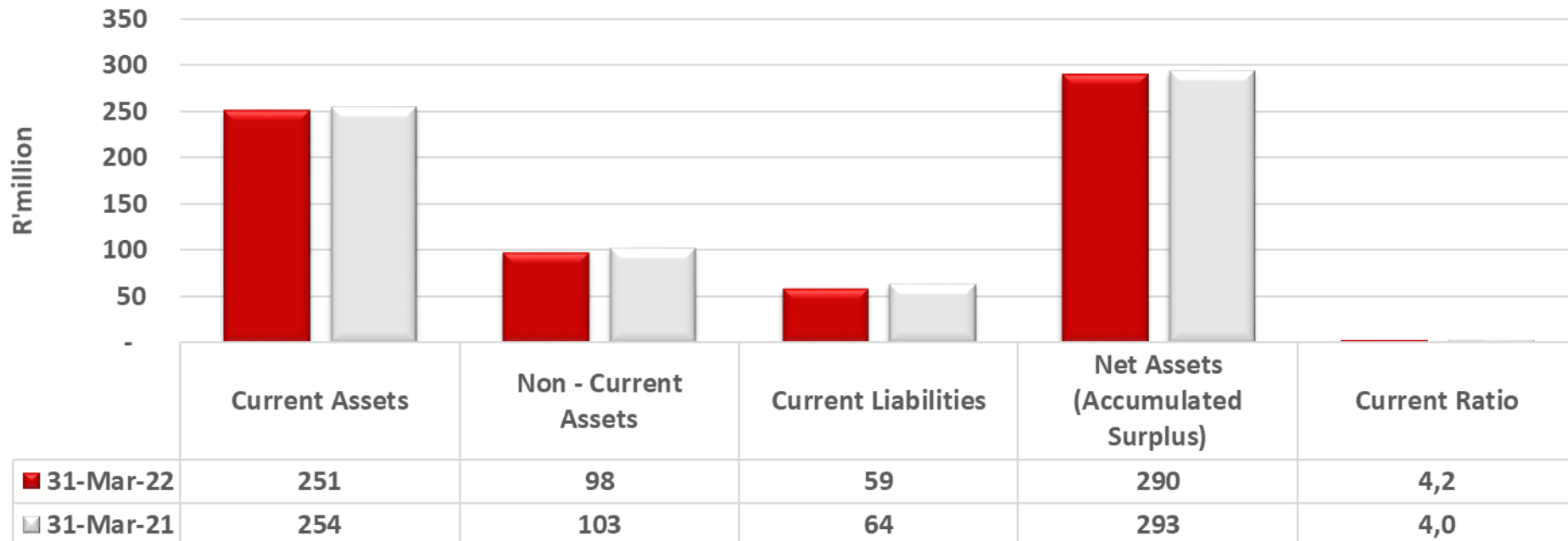
Key achievements – Organisational activities (3)

A. FINANCIAL MANAGEMENT

5. Financial position

NERSA is in a stable financial position at 31 March 2022, with a positive net asset value of R290 million. This is mainly due to cash reserves of R208 million included in current assets and a significant portion of it is placed with the Corporation for Public Deposits at the SARB.

Financial Position - 31 March 2022



Key achievements – Organisational activities (5)

C. HUMAN RESOURCE MANAGEMENT

1. Achieved a vacancy rate of 4.3% - which is the lowest vacancy rate since 2016/17.
2. Staff strength = 241 employees
 - a) 11 vacancies by the end of the review period
 - b) Average employee turnover of 3%.
3. Finalised the organisation-wide skills audit
 - a) Aimed at identifying the skills and knowledge that the organisation requires, as well as the skills and knowledge that the organization currently has.
 - b) An implementation plan to address the gaps identified in the audit is currently underway.
4. Women Empowerment
 - a) Aimed at ensuring the continuous empowerment of women by providing them with leadership opportunities.
 - b) NERSA currently has 50% women at top management level.
5. Implemented NERSA's Learnership Programme
 - a) Provides an opportunity to attain a National Certificate: Energy Regulation NQF Level 5 – SAQA ID 63209.
 - b) 24 learners and interns participated – (12 were accommodated as learners in regulatory departments and 12 as interns in supporting departments).
 - c) One intern has since been employed permanently by NERSA and two learners were appointed permanently at other regulators

Key achievements – Organisational activities (6)

D. PUBLIC AWARENESS

1. Customer education was conducted through fifty radio interviews, fourteen customer education workshops and participation at 8 exhibitions

E. INTERNATIONAL COORDINATION AND PARTNERSHIPS

1. Continued to be an active member of the Regional Electricity Regulators Association (RERA) and the African Forum for Utility Regulators (AFUR).
2. 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).
3. Entered into partnership with the European Union (EU), in collaboration with the Florence School of Regulation, for a series of capacity-building webinars for NERSA staff.

3. Main challenges for the 2021/22 financial year

Electricity Industry Regulation

1. NERSA dealt with various legally challenges from Eskom, including the reviewing and setting aside decision on RCA (2018/19) as well as the decision on FY18/19 supplementary application which was by Eskom. RCAs FY15 to FY17 were also challenged.
2. NERSA's Section 34 determination for 1 500MW of coal capacity was also challenged on constitutional grounds.
3. The ongoing load shedding as a result of supply side constraints within Eskom.

Mitigation actions

- a) NERSA will keep the Ministers of Public Enterprises and of Mineral Resources and Energy abreast of the litigation issues for their involvement and assistance.
- b) NERSA will also consult with Eskom each time there is deviation from the methodology.
- c) NERSA will ensure that all its decisions take into account all relevant facts and that the reasons for decisions are comprehensively researched.
- d) Improve system status monitoring and implementation of maintenance activities.

Piped-Gas Industry Regulation

1. Slight decline in the volumes of gas delivered to South Africa from Mozambique during April 2020, November 2020 and March 2021. This raises concern over Sasol Gas' ability to meet its obligations for annual supply of natural gas in terms gas supply from Mozambique.

Mitigation actions

- a) NERSA has engaged Sasol Gas and got clarification that the decline in volumes was a result of temporary low demand by its major customers as well as temporary shut downs for maintenance purposes at its internal operations in Secunda.
- b) NERSA will be continuously participating in measures to facilitate the introduction of alternative sources of supply such as LNG through licensing and registration of LNG importation projects

Petroleum Pipelines Industry Regulation

1. The implementation of the Memorandum of Understanding with Transnet National Ports Authority (TNPA) was delayed due to changes in the TNPA personnel.

Mitigation actions

- a) Discussion at senior level assisted in connecting to the new representatives and starting the implementation and the convening of work streams.

Organisational environment

1. The continued impact of COVID-19 and remote working on employee engagement.
2. Inadequate IT Systems and business processes that do not improve the performance.

Mitigation actions

- a) Improved internal online communication on employee wellness issues and implementation of online wellness activities.
- b) Implementation of ICT strategy.

SUPPORT REQUESTED IN RESPECT OF IDENTIFIED REGULATORY CHALLENGES

1. Speedy finalisation of amendments of governing legislation and policies – National Energy Regulator Act, Gas Act, Petroleum Pipelines Act, Electricity Regulation Act - acknowledging the progress made to date with some of the draft amendment bills.
2. Alternative dispute resolution (ADR) is requested as a first process for dispute resolution instead of the current court processes (The ADR could be made part of the NERSA's governing legislation.)
3. Harmonization of regulatory frameworks for cross-border trade in the SADC region and the continent.
4. Streamlining of the regulation of the fragmented petroleum sector.
5. Investment in energy infrastructure.
6. Safeguarding of current energy infrastructure (theft, vandalism, etc.)

4. Conclusion

1. NERSA is thankful for the opportunity to present its Annual Report for 2021/22.
2. 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.
3. 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.
4. NERSA is a viable entity and is still operating as a going concern.

Thank you

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B. Detailed presentation on organisational performance

PRESENTATION OUTLINE

1. Introduction
2. Mandate
3. Strategic Imperatives
4. Corporate Governance issues
5. Performance in the 2021/22 financial year
6. Human Resource Management
7. International Activities
8. Financial performance
9. Main challenges for the 2020/21 financial year and corrective steps being taken
10. Conclusion

1. Introduction

Legislative Context

1. The National Energy Regulator (NERSA) is a Schedule 3A Public Entity as per the Public Finance Management Act, 1999 (Act No. 1 of 1999).
2. It was established on 1 October 2005 in terms of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) to regulate the *Electricity, Piped-Gas and Petroleum Pipelines industries*.
3. In terms of section 5 of the National Energy Regulator Act, No. 40 of 2004, the Minister of Energy appoints nine (9) Regulator Members:
 - a) Four (4) are Full-Time Regulator Members (FTRMs) and hold office for a period of five (5) years (Chief Executive Officer, three Members each primarily responsible for Electricity, Piped-Gas and Petroleum Pipelines industry regulation)
 - b) Five (5) are Part-Time Regulator Members (PTRMs) and hold office for a period of four (4) years

NERSA's Role

NERSA's overarching role is to:

- ensure the development and sustainability of the electricity, piped-gas and petroleum pipelines industries;
 - while facilitating the affordability of and accessibility to the three regulated industries to balance the economic interests of all stakeholders
 - ❖ to ensure the sustainable economic development of South Africa and a better life for all.

Regulatory Independence

1. The National Energy Regulator Act provides that the Regulator must act independently of any undue influence or instructions.
2. The Energy Regulator has developed regulatory mechanisms (*i.e. policies, procedures, rules, guidelines, systems, etc.*) that makes its decision-making processes to be open, transparent, credible, consistent, predictable, as well as making it accountable for its decisions.

2. MANDATE

MANDATE (1)

NERSA's Mandate is anchored in:

1. 4 Primary Acts:

- a) National Energy Regulator Act, 2004 (Act No. 40 of 2004);
- b) Electricity Regulation Act, 2006 (Act No. 4 of 2006);
- c) Gas Act, 2001 (Act No. 48 of 2001); and
- d) Petroleum Pipelines Act, 2003 (Act No. 60 of 2003).

2. 3 Levies Acts:

- a) Gas Regulator Levies Act, 2002 (Act No. 75 of 2002);
- b) Petroleum Pipelines Levies Act, 2004 (Act No. 28 of 2004);
and
- c) Section 5B of the Electricity Act, 1987 (Act No. 41 of 1987).

MANDATE (2)

1. NERSA's mandate is summarised as follows:
 - a) Issuing of **licences** and setting pertinent conditions
 - b) Setting and/or approving **tariffs and prices**
 - c) Monitoring and enforcing **compliance** with licence conditions
 - d) **Dispute resolution** including mediation, arbitration and the handling of complaints
 - e) Gathering, storing and disseminating **industry information**
 - f) Setting of **rules, guidelines and codes** for the regulation of the three industries
 - g) Determination of **conditions of supply** and applicable standards
 - h) **Registration** of import and production activities
2. In executing its mandate NERSA endeavours to balance the conflicting interest of both licensed entities and end users.

3. 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 Regulation	Industry	A stable and accessible Electricity Industry that supports an improved quality of life and economic activity
Piped-Gas Regulation	Industry	Efficient, safe, effective, sustainable, accessible, competitive and transformed piped-gas industry
Petroleum Industry Regulation	Pipelines	Efficient, safe, effective, sustainable, competitive and transformed petroleum pipelines industry
Support services		NERSA established and perceived as an efficient, effective and credible regulator

4. Corporate Governance issues

Introduction

1. NERSA is committed to good corporate governance. Adopted the Corporate Governance Handbook containing corporate governance rules and prescripts.
2. 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.
3. NERSA ensures declaration of interest.
4. 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

1. The Executive Authority of the National Energy Regulator is the Minister of Energy.
2. The Energy Regulator submitted a number of statutory documents to the Executive Authority, namely:
 - a) The Annual Performance Plan (2022/23 – 2024/25) submitted by 31 January 2022 to the Minister of Mineral Resources and approval and tabling in Parliament.
 - b) 4 quarterly performance reports submitted within prescribed timeframes
 - c) The Annual Report (2020/21) was submitted to the Minister of Energy, the Minister of Finance and the Auditor-General by August 2021.

Accounting Authority

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

Energy Regulator subcommittees and committees

1. Regulatory Subcommittees – open to the public except where confidential matters are to be considered:
 - a) Electricity Subcommittee (ELS)
 - b) Piped-gas Subcommittee (PGS)
 - c) Petroleum Pipelines Subcommittee (PPS)

2. Crosscutting Subcommittees – open to the public except where confidential, organisational or governance matters are to be considered:
 - a) Regulator Executive Committee (REC)

3. Governance Committees – not open to the public:
 - a) Human Resource and Remuneration Committee (HRRC)
 - b) Finance Committee (FIC)
 - c) Audit and Risk Committee (ARC)
 - d) Information Technology Governance Committee (ITGC)

Risk Management

1. The Energy Regulator approved the Risk Appetite and Tolerance Thresholds for the organisation.
2. Progress made with mitigating the top 10 risks was reported in the quarterly performance reports.
3. NERSA has embarked on the implementation of the Combined Assurance Framework and Model.

Internal Audit

1. The Internal Audit Unit has completed all 51 audits planned for the period under review.

Compliance monitoring

1. NERSA reports on compliance with the PFMA and Treasury Regulations in its quarterly reports submitted to the Department of Mineral Resources and Energy.
2. All policies and procedures approved by the Energy Regulator are maintained in the Corporate Governance Handbook and are complied with.

Fraud and Corruption

1. A fraud policy and a fraud prevention plan are in place.
2. 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.
3. No cases of fraud were reported during the financial year.

5. Performance in the 2021/22 financial year

1. Overall Performance against planned targets
2. Achievements against strategic outcomes are grouped as follows:
 - a) Electricity Industry Regulation;
 - b) Piped-Gas Industry Regulation;
 - c) Petroleum Pipelines Industry Regulation;
 - d) Transversal Regulatory; and
 - e) Organisational.
3. Institutional response to the COVID-19 pandemic.

Overall Performance against planned outputs and targets

REGULATED INDUSTRIES AND OTHER FOCUS AREAS	PLANNED ANNUAL TARGETS		ANNUAL TARGETS MET		REASONS FOR ANNUAL TARGETS NOT MET			
					External Dependencies		Internal factors	
	2020/21	2021/22	2020/21	2021/22	2020/21	2021/22	2020/21	2021/22
Electricity	28	31	26 (93%)	26 (84%)	1 (4%)	5 (16%)	1 (4%)	0 (0%)
Piped-Gas	24	19	22 (92%)	19 (100%)	1 (8%)	0 (0%)	0 (0%)	0 (0%)
Petroleum Pipelines	17	13	15 (88%)	13 (100%)	2 (12%)	0 (0%)	0 (0%)	0 (0%)
Transversal Regulatory	4	4	3 (75%)	3 (75%)	0 (0%)	0 (0%)	1 (25%)	1 (25%)
Organisational	15	16	12 (80%)	14 (88%)	2 (13%)	0 (0%)	1 (7%)	2 (13%)
TOTAL	88	83	78 (89%)	75/83 90%	7 (8%)	5 (6%)	3 (3%)	3 (4%)

Achievements: Electricity Industry Regulation (1)

Outcomes	Summary of performance
The Energy Regulator considered the following:	
<p>1. Accessible and affordable electricity for all citizens</p>	<ul style="list-style-type: none"> a) 1 tariff application of licensed distributors for increases higher than the guideline and benchmark b) 175 tariff applications of licenced distributors for increases within the guideline and benchmark c) 1 report on the monitoring of the implementation of IBTs by licensed distributors in South Africa eligible for IBT implementation d) Eskom's Retail Tariff and Structural Adjustment Application (ERTSA) application for 2022/23 e) Eskom's revenue application for year 1 of MYPD 5 f) 1 report on the analysis of Eskom's performance based on Regulatory Financial Reports (RFRs) g) 1 report on the calculation of the National Free Basic Electricity (NFBE) rate for 2021/22 financial year h) 2 reports on cost of supply based-tariffs for electricity distributors.
<p>2. Diverse energy supply that is certain and secure for current and future user needs</p>	<ul style="list-style-type: none"> a) 39 new licence applications for electricity generation facilities b) 23 applications for amendment of licences c) 310 applications for registration of electricity generation facilities

Achievements: Electricity Industry Regulation (2)

Outcomes	Summary of performance
The Energy Regulator considered the following:	
<p>3. A regulatory environment that facilitates investment in electricity infrastructure</p>	<p>a) 2 reports on the new entrants into the Electricity Supply Industry for the year 2020 was considered.</p> <p>b) 3 compliance audit reports (one each for generation, transmission and distribution) on the state of compliance with licence conditions</p> <p>c) 1 audit report on the annual performance of IDM for 2020/21</p> <p>d) 1 audit report on the Distribution Network Development 2020/21 projects for compliance with the South African Grid Code</p> <p>e) 2 monitoring reports on the performance and progress of Renewable Energy projects for 2022/3</p>
<p>4. Fair balance between the needs of all stakeholders</p>	<p>a) 291/325 disputes/complaints including initiated investigations closed within 120 working days</p>
<p>5. Non-discriminatory access to and a safe and reliable operation of the electricity infrastructure</p>	<p>a) 42 applications from the ESI requiring exemption to the South African grid code</p> <p>b) 3 applications from the ESI requiring amendment to the South African grid code</p>
<p>6. Regulatory certainty within the electricity industry</p>	<p>a) 1 report on regulatory advocacy aimed at improvement of the regulatory framework provided through legislation, regulation and government policies</p>

Achievements: Piped-Gas Industry Regulation (1)

Outcomes	Summary of performance
The Energy Regulator considered the following:	
<p>1. Equitable access to affordable gas services at competitive prices</p>	<p>a) 5 maximum price applications b) 1 transmission tariff applications c) 4 quarterly calculations of the ROMPCO tariff for gas volumes below 120 million Gigajoules d) 1 report on the assessment of the adequacy of competition in the gas industry</p>
<p>2. Efficient, sustainable and orderly development of the piped-gas industry aimed at security of supply</p>	<p>a) 12 licence applications for construction and operation of gas facilities and trading in gas b) 8 applications for registration of gas activities c) 6 applications for amendment of licences d) 1 Report on Regulatory Gaps regarding Third Party Access (TPA) to Infrastructure was considered.</p>
<p>3. Supply of 120m GJ p.a. from Mozambique to South Africa (in terms of Clause 4 of Schedule One to the Agreement)</p>	<p>a) 6 reports on licensee's compliance with approved Maximum Prices b) 3 reports on licensee's compliance with approved transmission tariffs c) 4 reports (one for each licensee – SASOL, ROMPCO, Transnet and SLG) on the implementation of the RRM for the 2020/21 period d) 1 report on annual audit conducted on the ROMPCO pipeline e) 12 monthly volume balance reports on gas delivered to SA from Mozambique f) 2 reports on compliance with licence conditions.</p>

Achievements: Piped-Gas Industry Regulation (2)

Outcomes	Summary of performance
The Energy Regulator considered the following:	
1. Fairness and equity in the piped-gas market	a) Reports on finding of 2 completed investigations and enquiries initiated
2. Effective regulation of the piped-gas industry	a) 1 report on gas regulatory advocacy
3. Dialogue with stakeholders in the gas market in order to facilitate the development of the market	a) 1 report on stakeholder workshops / meetings
4. Understanding of and monitor new developments in the gas industry	a) 3 reports on developments in new gas industry

Achievements: Petroleum Pipeline Industry Regulation (1)

Outcomes	Summary of performance
The Energy Regulator considered the following:	
1. Equitable access to affordable petroleum products, services and infrastructure at competitive prices	a) 63 storage, loading and pipelines facilities tariff applications
2. Efficient, sustainable and orderly development of a transformed petroleum pipelines industry aimed at security of supply	a) 4 licence applications b) 11 applications for licence amendments / revocations c) 1 report on investigations done into suspected unlicensed activities d) 1 report on the geographic spread of licences issued for petroleum pipelines infrastructure and new entrants
3. Infrastructure utilisation and third-party access monitored in the petroleum pipeline industry	a) 2 reports on trends regarding utilisation of storage facilities and third party access b) 1 report on the implementation of the methodology to determine uncommitted capacity
4. Development of infrastructure monitored in the petroleum pipeline industry	a) 2 reports on the construction of new facilities

Achievements: Petroleum Pipeline Industry Regulation (2)

Outcomes	Summary of performance
The Energy Regulator considered the following:	
5. Licensees' in the petroleum pipeline industry compliance with statutory reporting requirements monitored	a) 2 report on licensees' compliance with statutory reporting requirements
6. Efficient, effective, sustainable and orderly development, operation and use of petroleum pipelines infrastructure	a) 1 report on 1 complaint investigated
7. Regulatory certainty	a) 1 report on the monitoring of the implementation of the revised methodology
8. Security of Supply promoted	a) 2 reports on the inland security of supply
9. A regulatory environment that provides regulatory certainty and facilitates investment in petroleum pipeline infrastructure	a) 1 report on regulatory advocacy aimed at improvement of the regulatory framework

Achievements: Transversal regulatory

Outcomes	Summary of performance
The Energy Regulator considered the following:	
1. 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	a) 2 progress reports on the implementation of the Regulatory Reporting Manuals regarding the Standard Chart of Accounts (SCOA) for the municipalities b) 2 reports on the implementation of the Regulatory Reporting Manuals for Non-financial and financial information c) 2 reports on partnership creation to position NERSA as a recognised regulator nationally, regionally and internationally

Achievements: Organisational (1)

Outcomes	Summary of performance
The Energy Regulator considered the following:	
1. 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	a) 2 reports on the implementation of the Employment Equity Plan b) 50% of women in management positions c) 2% of people with disabilities employed d) 4 reports on the implementation of the Youth Employment Accord e) 1 report on the implementation of the Learnership and Internship Programmes

Achievements: Organisational (2)

Outcomes	Summary of performance
The Energy Regulator considered the following:	
<p>1. 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"> a) 1 report on the implementation of the bursary programme for qualifying external applicants b) 1 report on the design of a regulatory course at an accredited institution of higher learning c) 2 reports on the development of a technical regulatory training and development programme d) 1 report on the implementation of the NERSA Enterprise Development Plan e) 90% procurement over R30 000 awarded to suppliers with a B-BBEE status level of 4 or better f) 1 report on the implementation of the stakeholder management plan g) Unqualified Audit h) 2 reports on the implementation of the ICT Strategy

Institutional response to the COVID-19 pandemic

1. During this reporting period NERSA continued to implement its COVID-10 Business Continuity Response Plan which was approved by the Energy Regulator in May 2020.
 - a) The COVID-19 Response Committee ensured the successful implementation of the Plan.
 - b) The appointed COVID-19 Compliance Officer monitored NERSA's continued compliance with all the regulations issued by government in terms of the Disaster Management Act.
2. Progress and status reports were submitted to the Energy Regulator on a monthly basis.

6. Human Resource Management

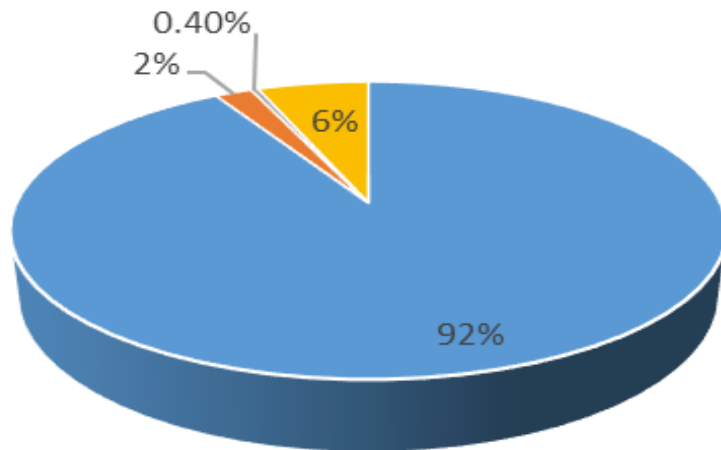
Staff development

1. A total of 51% of staff underwent training (both locally and internationally) .
2. 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.
3. 12 interns were appointed and allocations were made across both the support and regulatory divisions.

Staff Analysis

	2020/21	2021/22
Total staff strength	237	241
Total staff complement	252	252
Vacancies	15	11

Demographic Profile



■ African ■ Coloured ■ Indian ■ White

Gender Profile



■ Male ■ Female

7. 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
Burkino 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.

8. Financial Performance

Funding Methodology

1. 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.
2. The following Acts govern the imposition of such levies:
 - a) Gas Regulator Levies-Act, 2002 (Act No. 75 of 2002);
 - b) Petroleum Pipelines Levies Act, 2004 (Act No. 28 of 2004); and
 - c) 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)

1. Costs for industry-specific regulatory functions are ring-fenced.
2. 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.

FINANCIAL MANAGEMENT (1)

1. Revenue Performance

- a) Volumes reported for the year ending 31 March 2022 in all three regulated energy industries came in above estimates, as economic activity picked up with the easing of lockdown and travel restrictions:
- Electricity volumes were 4.7% above Budget
 - Piped-gas volumes were 3.4% above Budget and
 - Petroleum pipelines were at 6.9% above Budget.
- b) The improvement in volumes contributed to an over recovery in revenue from levies and license fees by 3.1%.

2. Operating Expenditure

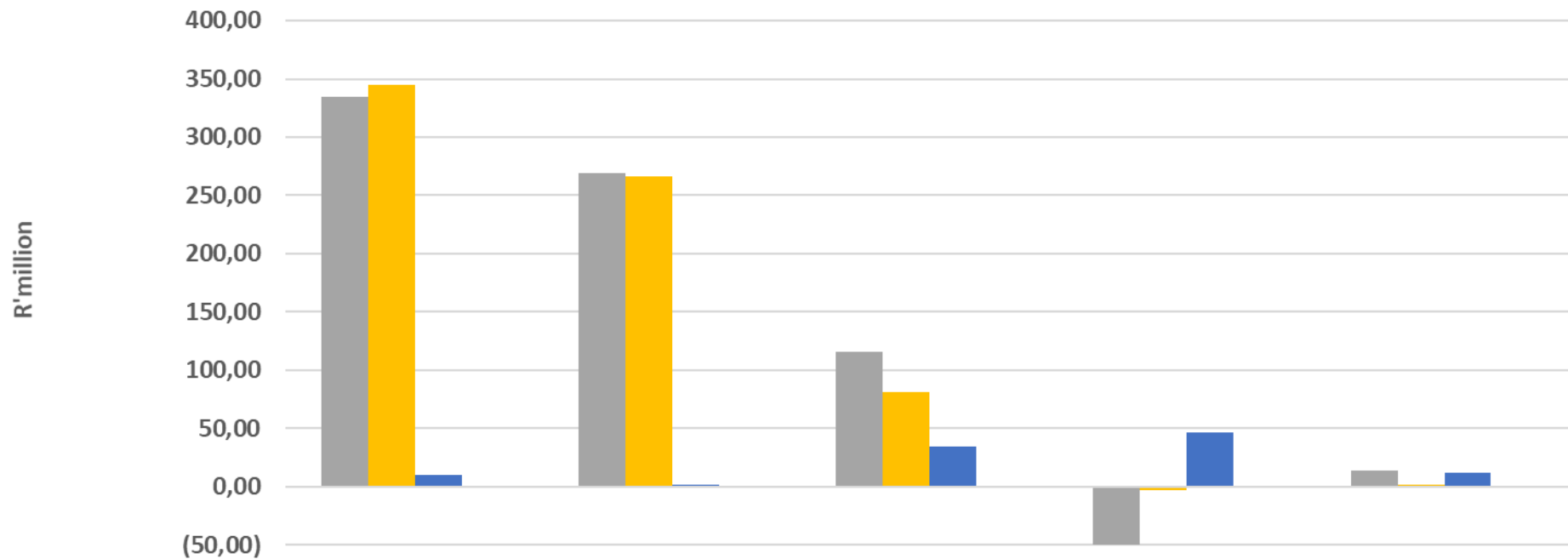
- a) Operating expenditure for the year ending 31 March 2022 was 30% lower than the budgeted expenditure due to the continued remote working and online engagements throughout the year which resulted in a significant reduction in travel and meeting costs.

3. Operating Deficit

- a) NERSA reported a deficit of R 3.25 million against a budgeted deficit of R 49.2 million. The budgeted deficit is funded from accumulated surpluses from previous financial years. This enables the reduction of the funding requirement for NERSA when determining the levy rates and license fee

FINANCIAL MANAGEMENT (2)

4. Financial Performance - Year ended 31 March 2022



(100,00)

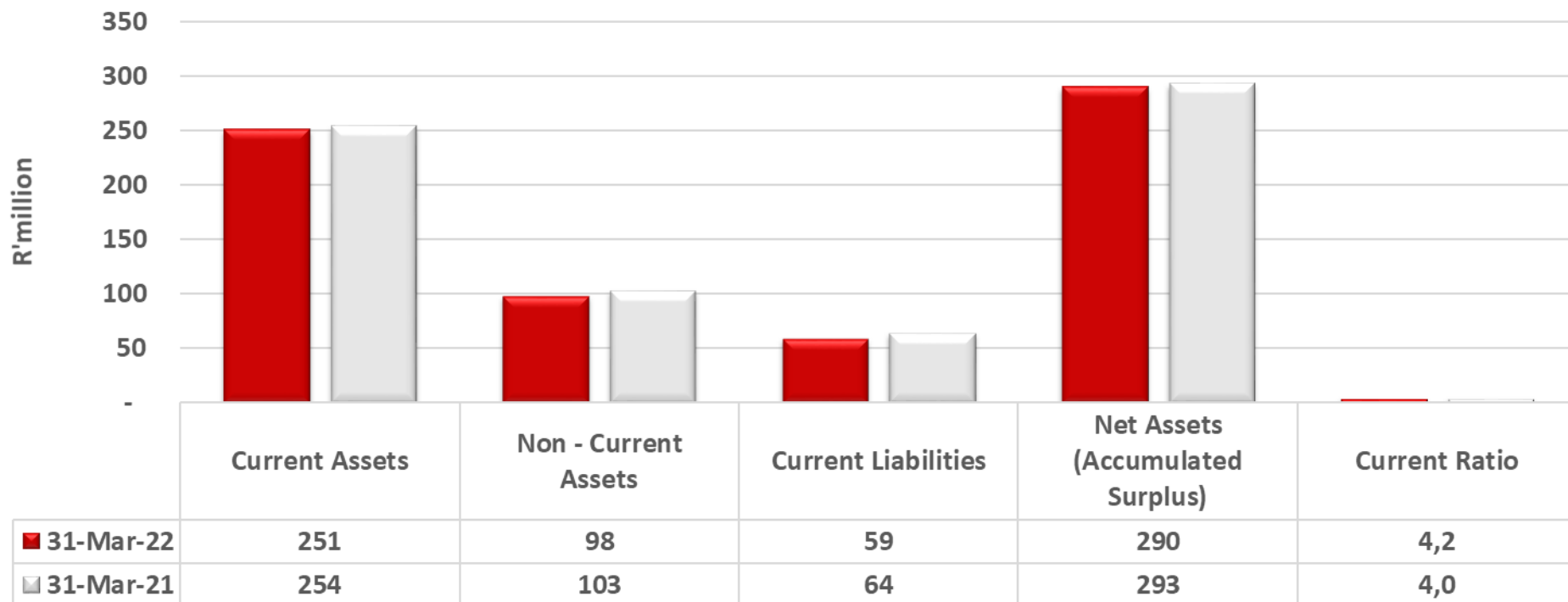
	REVENUE - LICENCE FEES & LEVIES	EMPLOYMENT COSTS	OTHER OPERATING COSTS	NET SURPLUS (DEFICT)	CAPITAL EXPENDITURE
■ BUDGET 2021/22	334,56	268,85	115,63	(49,92)	14,00
■ ACTUAL 2021/22	344,88	266,78	81,35	(3,25)	2,09
■ VARIANCE 2021/22	10,32	2,07	34,28	46,67	11,91
■ % VARIANCE 2021/22	3,1%	0,8%	29,6%	93,5%	85,1%

FINANCIAL MANAGEMENT (3)

5. Financial position

NERSA is in a stable financial position at 31 March 2022, with a positive net asset value of R290 million. This is mainly due to cash reserves of R208 million included in current assets and a significant portion of it is placed with the Corporation for Public Deposits at the SARB.

Financial Position - 31 March 2022



FINANCIAL MANAGEMENT (4)

6. Irregular Expenditure as at 31 March 2022

	2022	2021
Opening Balance	R 6 023 812	R 5 487 622
Irregular expenditure incurred - current	-	R 536 190
Amounts written off	R (1 413 414)	
Closing Balance	R 4 610 398	R 6 023 812

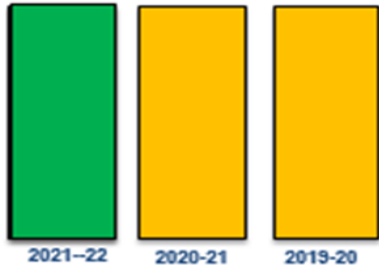
Details of irregular expenditure

None incurred in the 2021/22 financial year

Balance relates to FTRM Salary increases in 2011 not approved by Minister. This is pending the condonation and/or write off process.

AUDIT OUTCOMES

Improvement in audit outcomes



Types of audit outcomes

- Unqualified with no findings
- Unqualified with findings
- Qualified with findings
- Adverse with findings
- Disclaimed with findings

Assurance levels

First level of assurance

- Senior management
- Accounting authority
- Executive Authority

Second level of assurance

- Audit committee
- Internal audit

Provides assurance Provides some assurance Provides limited/no assurance Vacant/ not established

1

To improve the **audit outcomes** ...

2

... the key role players need to **assure** that ...

5

... the **root causes** are addressed ...

4

... the **risk areas** and ...

3

... attention is given to the **key controls** and ...

... the **best practices** are maintained.

Root causes should be addressed

Lack of adequate review of performance reports by management, to ensure that they are accurate, complete and adequately supported. This resulted in adjustments of the annual performance report

Best Practices:

Compliance monitoring should continuously be implemented and enhanced as per the recommendations in the report

The review of the AFS and APR should continue and be enhanced per our recommendations

Risk areas

Quality of submitted financial statement ▲	Quality of submitted performance information ▶	Supply chain management ▲
Financial health ▶	Human resource management ▶	Information technology ▶

Good Of concern Intervention required

Status of drivers of internal controls

Leadership ▶	Financial and performance management ▶	Governance ▶
Effective leadership culture ▶	Proper record keeping ▶	Risk management ▶
Oversight responsibility ▶	Processing and reconciling control ▶	Internal audit ▶
HR Management ▶	Regular reporting ▶	Audit committee ▶
Policies and procedures ▶	Compliance monitoring ▲	
Audit action plans ▶	IT system controls ▶	
IT Governance ▶		

Good Of concern Intervention required

9. Main challenges for the 2021/22 financial year and corrective steps being taken

Key Challenges impacting on NERSA's performance (1)

Challenge	Mitigating strategy
1. The implementation of the Memorandum of Understanding with Transnet National Ports Authority (TNPA) was delayed due to changes in the TNPA personnel.	a) Discussion at senior level assisted in connecting to the new representatives and starting the implementation and the convening of work streams
2. Lack of adequate provisions in the current Gas Act e.g. definition of gas, no provisions for TPA to distribution facilities	a) Finalize the Gas Amendment Bill
3. Impact of recent surge in global gas prices	a) NERSA has developed a discussion document and consulted industry stakeholders on the potential impact of the global surge in gas prices. b) Commenced with reviewing the Maximum Price Methodology to mitigate against the impact of the global surge in gas prices
4. Lack of adequate gas sources/supply to meet existing demand	a) Develop and maintain trade relations with neighboring countries to harness gas supply opportunities b) Explore opportunities for LNG imports

Key Challenges impacting on NERSA's performance (2)

Challenge	Mitigating strategy
<p>5. NERSA dealt with various legally challenges from Eskom, including the reviewing and setting aside decision on RCA (2018/19) as well as the decision on FY18/19 supplementary application which was by Eskom. RCAs FY15 to FY17 were also challenged.</p>	<p>a) NERSA will keep the Ministers of Public Enterprises and of Mineral Resources and Energy abreast of the litigation issues for their involvement and assistance.</p> <p>b) NERSA will also consult with Eskom each time there is deviation from the methodology.</p>
<p>6. NERSA's section 34 determination for 1 500MW of coal capacity was also challenged on constitutional grounds.</p>	<p>a) NERSA will ensure that all its decisions take into account all relevant facts and that the reasons for decisions are comprehensively researched.</p>
<p>7. The ongoing load shedding as a result of supply side constraints within Eskom.</p>	<p>a) Improve system status monitoring and implementation of maintenance activities</p>

Key Challenges impacting on NERSA's performance (3)

Challenge	Mitigating strategy
9. Impact of the lockdown on all NERSA's processes and operations	<ul style="list-style-type: none"> •Deploying of on-line technologies and review of key HR policies
10. Inadequate IT Systems and business processes that do not improve the performance	<ul style="list-style-type: none"> •Implementation of the approved comprehensive ICT Strategy.

10. CONCLUSION

1. NERSA is thankful for the opportunity to present its Annual Report for 2021/22.
2. 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.
3. 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.
4. NERSA is a viable entity and is still operating as a going concern.

Thank you

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