



STRATEGIC PLAN

2012/13-2016/17

FINAL - 31 JANUARY 2012

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**NATIONAL ENERGY REGULATOR OF SOUTH AFRICA
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Foreword by the Chairperson

The National Energy Regulator of South Africa (NERSA) is a key enabler in advancing economic growth and social development within South Africa. Energy forms the backbone of the South African economy, not only from a growth point of view but also in terms of job creation and social upliftment.

In South Africa, the electricity, piped-gas and petroleum pipelines industries are to a large extent monopolistic in nature and therefore the regulation of these industries is critical to ensure that the balance between the needs of the consumer and the industries are met.

With a global decline in energy reserves as well as a greater emphasis on the environment, the Energy Regulator is facing a number of challenges for the future.

On the home front, South Africa faces challenges regarding the security of supply, especially within the electricity and petroleum industry. During the five years of this strategic plan, the construction of new electricity generation capacity as well as the new multi-product pipeline should be completed, which will assist in alleviating these capacity constraints.

The growth of the gas market in South Africa remains a challenge, given the paucity of domestic natural gas and the substantial investment cost involved for new entrants.

With the need to diversify the energy sources in this country and with the emphasis shifting towards sustainability into the future, the introduction of renewable energy and independent power producers into the electricity grid will be a priority for the times ahead.

The pivotal role that NERSA plays by regulating the electricity, piped-gas and petroleum pipelines industries is underpinned by the mandate of NERSA that is enshrined in the National Energy Regulator Act, 2004 (Act No. 40 of 2004), the Electricity Regulation Act, 2006 (Act No. 4 of 2006), the Gas Act, 2001 (Act No. 48 of 2001) and the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003) and is also aligned to the objectives of our government. In regulating the electricity, piped-gas and petroleum pipelines industries, NERSA adheres to the regulatory principles of transparency; neutrality; consistency and predictability; independence; accountability; integrity; and efficiency.

I would like to take this opportunity to acknowledge the important work that the Members of the Energy Regulator, the management team and staff are executing and would like to encourage a collective and innovative spirit in implementing the legislative mandate of NERSA and future strategic programmes.

Cecilia Khuzwayo
Chairperson: NERSA

Introduction by the Chief Executive Officer

The National Energy Regulator (NERSA) was established on 1 October 2005. In terms of the National Energy Regulator Act, 2004 (Act No. 40 of 2004), its mandate is to regulate the electricity industry in terms of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), regulate the piped-gas industry in terms of the Gas Act, 2001 (Act No. 48 of 2001), and regulate the petroleum pipelines industry in terms of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003). NERSA must perform such other functions as may be assigned to it by or under these Acts.

NERSA is expected to implement its mandate and to proactively take the necessary regulatory decisions in anticipation of and in response to the changing circumstances in the energy industry.

We are acutely aware that whilst NERSA's mandate is derived from legislation governing and prescribing its role and functions, the performance and consequently the relevance of NERSA must be informed by the tangible impact, benefits and meaningfulness of its work for the citizens of our country.

The role of NERSA is to ensure the development and sustainability of the electricity, piped-gas and petroleum pipelines industries, while facilitating the affordability of and accessibility to these industries to balance the economic interests of all stakeholders to ensure sustainable economic development of South Africa and a better life for all.

The focus of the Strategic Plan reflects the renewed sense of urgency in increasing delivery on the mandate of NERSA as well as evaluating the impact of our actions.

The Strategic Plan focuses on improving the planning, monitoring and evaluation of NERSA through ensuring that the plan contains SMART strategic objectives. The implementation plans that we have developed are not only realistic but also robust.

As part of her performance contract with the President, the Minister of Energy has committed to contributing specifically to the following Government outcomes:

- Outcome 2. A long and healthy life for all South Africans;
- Outcome 4. Decent employment through inclusive economic growth;
- Outcome 6. An efficient, competitive and responsive economic infrastructure network;
- Outcome 8. Sustainable human settlement and improved quality of household life; and
- Outcome 10. Environmental assets and natural resources that are well protected and continually enhanced.

In this strategic plan, NERSA has formulated the five strategic outcome-oriented goals which will guide its programmes for the next 5 years. These are:

1. To facilitate Security of Supply in order to support sustainable economic development in South Africa;
2. To facilitate investment in infrastructure in the energy industry to support sustainable economic development in South Africa;
3. To promote competitive and efficient functioning of the energy industry in order to sustain economic development in South Africa;
4. To facilitate affordability and accessibility in the energy industry to balance economic interests of all stakeholders in support of economic development of South Africa and a better life for all; and

5. To position and establish NERSA as a credible and reliable regulator in order to create regulatory certainty.

NERSA takes skills development and capacity building in energy regulation seriously. Consequently, a certified qualification in energy regulation has been developed and NERSA currently has ten learners, participating in obtaining this qualification. NERSA will continue to enroll learners into this programme during the five years of this strategic plan.

Apart from the internal capacity building programmes in energy regulation, NERSA is also contributing to broader society understanding of energy regulation through hosting training and development courses that can be attended by external parties.

The development of this Strategic Plan necessitated a rethink regarding the role of NERSA with the emphasis being placed on the outcome and impact of regulating the electricity, piped-gas and petroleum pipelines industries. The implementation of the Strategic Plan may highlight areas where the Strategic Plan needs to be amended. Apart from this, NERSA is aware that the National Energy Regulator Act, 2004 (Act No. 40 of 2004); Gas Act, 2001 (Act No. 48 of 2001); and Electricity Regulation Act, 2006 (Act No. 4 of 2006) are in the process of being amendment. These amendments may have an impact on both the mandate and business plan of NERSA. Any consequential amendments to the Strategic Plan will be fully motivated and communicated to the relevant authorities as soon as possible.

I am proud to say, NERSA is not only galvanized but also ready and inspired to meet the delivery challenges of the next five years

Phindile Nzimande
Chief Executive Officer

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NATIONAL PLANNING CONTEXT

The Government obtains a five year political mandate through the process of democratic elections. The execution of this mandate is funded through the fiscus. Accountability to the nation and transparency as well as prudence in the usage of public resources is the stated rationale for the introduction of the Framework for Strategic Plans and Annual Performance Plans by National Treasury in August 2010. The new Framework for Strategic Plans and Annual Performance Plans is applicable to all national and provincial departments, constitutional institutions and public entities in the development of their strategic plans.

The framework was issued in terms of the mandates set out in sections 215 and 216 of the Constitution. These mandates require that national, provincial, municipal and public entity budgets and budgetary processes must promote transparency, accountability and the effective financial management of the economy, debt and the public sector. The mandate further grants the National Treasury the power to ensure both transparency and expenditure control in each sphere of government. The necessary legal basis for the implementation of this Framework is informed by the revised Treasury Regulations 30 issued in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA). Compliance is therefore mandatory and critical.

According to the Framework for Strategic Plans and Annual Performance Plans and the Treasury Regulations, NERSA is required to:

- Produce and table a Strategic Plan with a five-year planning horizon, outlining the planned sequencing of projects and programme implementation and associated resource implications and other prescribed information;
- Produce and table an Annual Performance Plan including forward projections for a further two years, consistent with the medium-term expenditure framework (MTEF) period, with annual and performance targets, where appropriate, for the current financial year and the MTEF period;
- Identify a core set of indicators needed to monitor institutional performance;
- Adopt a quarterly reporting system, including submission of agreed information to the Minister of Energy (Executive Authority) and Department of Energy (responsible department); and
- Ensure that there is alignment of reporting between the Strategic Plan, Annual Performance Plan, budget and annual and quarterly reports.

The Presidency, through the Monitoring and Evaluation Ministry, plays a leading role in defining the standards, processes, and techniques of planning and conducting and communicating the results of evaluations of government programmes and policies. Strategic Plans and Annual Performance Plans are intended to provide a basis for evaluating the organisational performance of public institutions. Strategic Plans identify strategically important outcomes orientated goals and objectives linked to Government wide outcomes against which medium term results can be measured and evaluated by Parliament, provincial legislatures and the public.

Whilst the mandate of NERSA is derived from legislation governing and prescribing the role and functions of the Regulator, the performance and consequently the relevance of the Regulator must be informed by the tangible impact and benefits of its work on the citizens of South Africa. The creation of public value focus necessitates a fundamental shift in the strategic thrust of NERSA towards an impact driven performance focus.

Availability of reliable, affordable and clean energy from a national planning context is central to stimulating productive capacity leading to sustainable economic and social development. Therefore NERSA's strategic plan reflects the strategic role of effective energy industry regulation.

PART A: STRATEGIC OVERVIEW

1. Vision

NERSA strives to regulate the South African electricity, piped-gas and petroleum pipelines industries by ensuring that the most efficient and effective industries are in place to exceed the requirements of existing and future energy customers. This is encapsulated in our **vision statement**, which is:

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

In this context, being “world-class” means that NERSA:

- *Regulates the energy industry within its mandate without losing sight of its shared vision and values.*
- *Is passionate and sensitive to the needs of its stakeholders, especially employees, consumers, energy suppliers and government, to ensure equity.*
- *Creates an environment that has low regulatory risk as viewed by all stakeholders.*
- *Promote competition and competitiveness and continues to provide sound, objective and professional regulation of monopolies given the existing socio-economic conditions.*
- *Assists all key stakeholders in optimizing the use of energy resources to ensure affordability for all consumers.*
- *Continually evaluates its performance and benchmark itself against the “best-in-class energy regulators in the world”.*
- *Subscribes to the best regulatory practices and standards, including corporate governance principles.*
- *Encourages new ideas, innovation, processes and systems that engender economic efficiency, effectiveness and continuous improvement to meet its aim to be a learning organisation.*
- *Maintains synergy between input, work processes and results through its capable, diverse, highly motivated and dedicated teams.*

2. Mission

By regulating the energy industry in accordance with government laws and policies, NERSA makes a valuable contribution to the socio-economic development and prosperity of the people of South Africa. Our *mission statement*, commits NERSA:

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

3. Values

Values are the expression of what we stand for and how we will conduct ourselves. In this context and in addition to our commitment to comply with the requirements of Section 9 (11) of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) and its Code of Conduct, we have adopted the following values:

- **Passion:** *We conduct our business with a sense of urgency and commitment and are proud to be part of NERSA*
- **Spirit of Partnership:** *In working with all our stakeholders we deliver on our promises for the purpose of sustainable development*
- **Excellence:** *In striving for the best results, we promote growth / development of our staff, and benchmarks ourselves against the “best-in-class” energy regulators across the globe*
- **Innovation:** *As a learning organization, we strive to set trends and promote creativity by challenging the norm in order to continuously improve*
- **Integrity:** *Being honest, fair and sincere with all stakeholders and amongst ourselves*
- **Responsibility:** *We practice responsibility and take ownership of our actions and decisions*
- **Professionalism:** *We encourage maintenance of high standards of professional competence, interdependence between our teams using effective communication channels to treat everybody as stakeholders*

4. Regulatory Principles

In regulating the three industries, NERSA must adhere to sound principles and approaches to be able to deliver on its mandate and achieve its objectives. NERSA has given consideration both to international best practice, as well as to the key principles stated in the “*AFUR framework for utility regulation in Africa*”.

Following the completion of the report *Benchmarking the National Energy Regulator of South Africa against international good practice*, NERSA reviewed the literature on good regulatory principles and identified the good regulatory principles that emerge strongly and consistently as international good practice.

Underpinned by NERSA’s legal mandate, NERSA adopted the following internationally accepted regulatory principles to underpin its regulatory approach:

- **Transparency:** The Energy Regulator is required to explain its decisions and processes to regulated entities and other interested parties, implying that the data or information that the decision is based on, is readily available and the reasoning behind it is readily explained. This covers public consultation and accessibility.
- **Neutrality:** The Energy Regulator should be neutral to all market players without favouring one or other group (non-discrimination).
- **Consistency and Predictability:** Decisions must be consistent and should have a reasonable degree of predictability based on previous rulings in similar cases.
- **Independence:** The independence of the Energy Regulator from the regulated companies is a prerequisite for any sound regulatory system. Independence from political influence is also desirable to ensure long-term stability of regulatory practices. Avoidance of regulatory capture by some customer groups is also necessary for successful regulation.
- **Accountability:** The Energy Regulator should be accountable for its actions and decisions. Independence must not be confused with the lack of accountability.
- **Integrity:** The Energy Regulator should exercise professionalism, honesty and objectivity in the management of the Energy Regulator’s affairs and in all its dealings with stakeholders.
- **Efficiency:** The Energy Regulator should make the best use of resources to further the regulatory objectives by exercising objectivity and commitment to evidence-based strategies for improvement.

5. Legislative and other mandates

NERSA is the regulatory authority established in terms of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) with the mandate to “undertake the functions of the National Electricity Regulator as set out in the Electricity Regulation Act, 2006 (Act No. 4 of 2006), undertake the functions of the Gas Regulator as set out in the Gas Act, 2001 (Act No. 48 of 2001), undertake the functions of the Petroleum Pipelines Regulatory Authority as set out in the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003) and to perform such other functions as may be assigned to it by or under these Acts”. NERSA’s mandate is anchored on the following four primary Acts:

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

NERSA derives its revenue by, amongst others, imposing prescribed levies on the regulated industries following a prescribed transparent procedure. In this regard, 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).

Apart from the mentioned legislation that anchors NERSA’s mandate and the imposition of levies, the following facilitating and all other legislation is also applicable to NERSA’s conduct of its business:

- The Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA), which specifies the accounting of NERSA as a Section 3 Public Entity;
- The Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA), which determines the way that NERSA has to treat access to information;
- The Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) (PAJA), which determines just administrative action of NERSA; and
- The Constitution.

Objects of the Acts

Each one of the industry-specific Acts that NERSA is deriving its mandate from has certain objects that should be achieved if NERSA carries out its functions as defined in these Acts.

The objects of the Electricity Regulation Act as stipulated in Section 2 of the Act, are to:

- Achieve the efficient, effective, sustainable and orderly development and operation of electricity supply infrastructure in South Africa;
- Ensure that the interests and needs of present and future electricity customers and end users are safeguarded and met, having regard to the governance, efficiency, effectiveness and long-term sustainability of the electricity supply industry within the broader context of economic energy regulation in the Republic;
- Facilitate investment in the electricity supply industry;
- Facilitate universal access to electricity;
- Promote the use of diverse energy sources and energy efficiency;

- Promote competitiveness and customer and end user choice; and
- Facilitate a fair balance between the interests of customers and end users, licensees, investors in the electricity supply industry and the public.

The objects of the Gas Act as stipulated in Section 2 of the Act, are to:

- Promote the efficient, effective, sustainable and orderly development and operation of gas transmission, storage, distribution, liquefaction and re-gasification facilities and the provision of efficient, effective and sustainable gas transmission, storage, distribution, liquefaction, re-gasification and trading services;
- Facilitate investment in the gas industry;
- Ensure the safe, efficient, economic and environmentally responsible transmission, distribution, storage, liquefaction and re-gasification of gas;
- Promote companies in the gas industry that are owned or controlled by historically disadvantaged South Africans by means of licence conditions so as to enable them to become competitive;
- Ensure that gas transmission, storage, distribution, trading, liquefaction and re-gasification services are provided on an equitable basis and that the interests and needs of all parties concerned are taken into consideration;
- Promote skills development among employees in the gas industry;
- Promote employment equity in the gas industry;
- Promote the development of competitive markets for gas and gas services;
- Facilitate gas trade between the Republic and other countries; and
- Promote access to gas in an affordable and safe manner.

The objects of the Petroleum Pipelines Act as stipulated in Section 2 of the Act, are to:

- Promote competition in the construction and operation of petroleum pipelines, loading facilities and storage facilities;
- Promote the efficient, effective, sustainable and orderly development, operation and use of petroleum pipelines, loading facilities and storage facilities;
- Ensure the safe, efficient, economic and environmentally responsible transport, loading and storage of petroleum;
- Promote equitable access to petroleum pipelines, loading facilities and storage facilities;
- Facilitate investment in the petroleum pipeline industry;
- Provide for the security of petroleum pipelines and related infrastructure;
- Promote companies in the petroleum pipeline industry that are owned or controlled by historically disadvantaged South Africans, by means of licence conditions to enable them to become competitive;
- Promote the development of competitive markets for petroleum products;
- Promote access to affordable petroleum products; and
- Ensure an appropriate supply of petroleum to meet market requirements.

The objects of the National Energy Regulator Act as stipulated in Section 1 of the Act, is to:

- Establish a National Energy Regulator for the regulation of the electricity, piped-gas and petroleum pipelines industries

Regulations

Electricity Industry Regulations

The Electricity Regulation Act gives the Minister of Energy the power to make Regulations in terms of which NERSA must discharge its mandate. The Minister has published the following Regulations:

- Electricity Regulations for Expropriation on behalf of a licensee;
- Electricity Regulations for compulsory norms and standard for reticulation services;
- Electricity Regulations on deviation from set or approved tariffs; and
- Revised New Generation Regulations were issued on 4 May 2011.

Piped-Gas Industry Regulations

The Gas Act gives the Minister of Energy the power to make Regulations in terms of which NERSA must discharge its mandate. The Minister published Regulations in terms of the Gas Act on 20 April 2007. These Regulations deal with, amongst others:

- third party access to transmission and storage facilities;
- expropriation procedures and timelines;
- mechanisms to promote historically disadvantaged South Africans;
- mediation and arbitration procedures; and
- price regulation principles and procedures.

Petroleum Pipelines Industry Regulations

The Petroleum Pipelines Act gives the Minister of Energy the power to make Regulations in terms of which NERSA must discharge its mandate. The Minister published the Regulations in terms of Petroleum Pipelines Act on 4 April 2008. The Regulations deal with, amongst others:

- third party access to storage facilities;
- setting of tariffs for petroleum pipelines and approval of tariffs for petroleum loading and storage facilities;
- expropriation procedures and timelines;
- mechanisms to promote historically disadvantaged South Africans; and
- mediation and arbitration procedures.

5.1. Policy mandates

NERSA's mandate is further derived from written government policies developed by the Minister of Energy in terms of the Electricity Regulation Act, Gas Act and Petroleum Pipelines Act. According to the Electricity Regulation Act, Gas Act and Petroleum Pipelines Act, NERSA must make decisions that are not at variance with published government policy.

The relevant policies applicable are:

- White Paper on Energy Policy for South Africa of 1998;

- South African Electricity Supply Industry; Electricity Pricing Policy (EPP) of the
- Free Basic Electricity Policy; and
- Policy for South Africa of 2003; White Paper on Renewable Energy
- Energy Security Master Plan: Liquid fuels published by the Department of Energy in 1998 and 2007.

Section 36 of the Gas Act incorporates an Agreement between the Minister of Minerals and Energy, the Minister of Trade and Industry and Sasol Limited concerning the introduction of natural gas by pipeline from the Republic of Mozambique into South Africa ("The Agreement"). This Agreement concerns the regulatory regime applicable to one particular participant in the piped-gas industry, Sasol Limited, and binds the regulator by bestowing a special regulatory dispensation to Sasol Limited ("Sasol") valid until to 25 March 2014 at the latest.

5.2. NERSA's contribution to Government's outcomes

Over and above the above stated policies, NERSA is also expected to contribute to Government's twelve outcomes, which is based on Government's Medium Term Strategic Framework (MTSF) that clearly articulates the agenda of the Government. The set of 12 outcomes were developed to reflect the desired development impacts Government seeks to achieve, given Government's policy priorities. Each tier of government as well as public entities are required to base their own planning for the medium term expenditure framework on these priorities and outcomes. As a public entity NERSA will contribute to the following five outcomes that the Minister of Energy has committed to:

Outcome 2: A long and healthy life for all South Africans

NERSA contributes through:

- Offering advice/comment with regards to cleaner fuels;
- Driving renewable energy programmes and promoting the introduction of renewables and gas into the energy mix;
- In determining electricity pricing, NERSA has set aside 3.2c/kWh in the second Multi-Year Price Determination (MYPD2) for the Electrification Fund;
- Taking affordability into consideration when setting and or approving tariffs and prices;
- Implementing inclining block tariffs for electricity consumers; and
- Regulating in a manner which facilitates security of supply.

Outcome 4: Decent employment through inclusive economic growth

NERSA contributes through:

- Licensing and the setting and/or approving of tariffs and prices. In this manner NERSA creates pre-conditions towards the achievement of this outcome;
- Setting renewable energy selection criteria, indicating that twenty decent jobs for every megawatt produced are required;
- Promoting companies that are owned and controlled by HDIs to become competitive; and
- Ensuring the sustainability of the coal industry as a large employer and job creator through the MYPD.

Outcome 6: An efficient, competitive and responsive economic infrastructure network

NERSA contributes through:

- Monitoring compliance and undertaking technical audits leading to regulatory efficiency;
- Setting and/or approving cost reflective tariffs and prices that encourage investment;
- Facilitating 3rd party access to facilities;
- Setting rules and frameworks that facilitate the building of new infrastructure; and
- Regulating in a manner which facilitates security of supply.

Outcome 8: Sustainable human settlements and improved quality of household life

NERSA contributes through:

- Creating an environment to attract investment to facilitate gas to power projects;
- Monitoring the implementation of the Integrated Resources Plan;
- Saving of electricity (MYPD1 and MYPD2);
- Participating in the Energy Sector Technical Committee that is preparing for the hosting of United Nations Climate Change of the Parties Conference (COP17);
- Verifying 1 Terrawatt hour (TWh) combined savings from Energy Efficiency and Demand Side Management (EEDSM) projects, including municipalities and Eskom;
- Taking affordability into consideration when setting and/or approving tariffs;
- Implementing inclining block tariffs; and
- Regulating in a manner which facilitates security of supply.

Outcome 10: Environmental assets and natural resources that are well protected and continually enhanced

NERSA contributes through:

- Creating an environment to attract investment to facilitate gas to power projects;
- Monitoring the implementation of the Integrated Resources Plan;
- Saving of electricity (MYPD1 and MYPD2);
- Participating in the Energy Sector Technical Committee that is preparing for the hosting of COP17;
- Participating in the competitive bidding process as part of its licensing mandate to introduce renewable energy, generated through independent power producers (IPPs) into the energy mix; and
- Verifying 1 Terrawatt hour (TWh) combined savings from Energy Efficiency and Demand Side Management (EEDSM) projects, including municipalities and Eskom.

5.3. Relevant court rulings

NERSA received a High Court application from Eskom on the Energy Regulator decision to award Midvaal an electricity distribution licence amendment. This pending decision by the High Court may have an impact on the contents of the Strategic Plan for the period 2012/13 – 2016/17.

5.4. Planned policy initiatives

Although policy formulation is outside of NERSA's realm of authority, specific policy gaps were identified that require ongoing dialogue and strategic engagement with the Department of Energy in order to ensure that there is alignment between NERSA's strategic direction and the

Department's policy thrusts. In some instances policy is not clear on, for instance, what security of supply requirements are and who should pay for them or build the infrastructure, but NERSA is required to consider licence and tariff applications in which such considerations play a role.

Many questions arise, such as:

- Who should ultimately pay for additional spare capacity desired by the state for strategic reasons but which cannot be commercially justified at present?
- How will the envisaged integrated infrastructure network be operated?
- To what extent can supplies be imported?
- What is the role of the Energy Regulator and/or government in facilitating investment in import facilities?

The result is that economic regulators face difficult trade-offs.

NERSA advocates the implementation of the White Paper on Energy Policy of 1998 before the principles enshrined in the policy and suite of subsequent legislation are overhauled. As the Energy Regulator we are aware that the policies of 1998 and consequent suite of legislation (Gas Act, Petroleum Pipelines Act, National Energy Regulator Act and Electricity Regulation Act) which were developed between 2001 and 2006 have been actively implemented since the establishment of NERSA in October 2005. It is only now that we are able to give private investors some certainty regarding energy infrastructure investments and the level playing field we are expected to provide. Recent private sector licence applications in the piped-gas and petroleum pipelines industries are a testimony to the success of government's liberalisation policies.

The Electricity Regulation Act gives the mandate for competitive bidding of electricity generation capacity to the Department of Energy (DoE), following a Cabinet decision that private sector participation in the electricity industry be split 70:30 between Eskom and the private sector, with DoE procuring the plant and Eskom being the "off-taker". The procurement by DoE took much longer than anticipated and in 2007 Cabinet decided that Eskom be designated as the single buyer of power from Independent Power Producers (IPP's) in South Africa and that Eskom will be responsible for ensuring that adequate generation capacity is made available and that 30% of the new power generation capacity is derived from IPP's.

Apart from the Regulations on the revised New Generation Capacity, promulgated in May 2011, no legislation or regulations have been promulgated in this regard.

The ability of NERSA to enforce compliance is constrained by a lack of policy to impose penalties in cases of non-compliance.

The energy industry lacks a single view of the regulatory authority as various energy industry supply chains are regulated by different authorities thus compromising the ability of co-ordinated regulatory oversight as a result of concurrent and/or adjacent jurisdiction. For example, the petroleum industry value chain is regulated by several different economic regulators viz. the Minister of Energy (and her Controller), NERSA, the Petroleum Agency of South Africa, the National Ports Authority, and the Airports Company South Africa. The competition authorities are also investigating the petroleum industry. Each one has its mandate in a different Act and accompanying regulations. There are areas of concurrent jurisdiction and near concurrent jurisdiction. This regulatory dispensation has allowed some

licensees to attempt to cherry pick elements of the different regulatory regimes to their advantage ("forum shopping") and this can compromise overall regulatory governance.

There are developments in the three industries that are not covered by the current industry-specific Acts. For example, in the piped-gas industry there are new technological developments allowing for mobile storage of compressed natural gas that were not foreseen when the Gas Act was promulgated in 2001. Furthermore, with the experience arising from licence applications received in 2009, NERSA is aware that licensing is becoming increasingly complex, involving methodological analysis of financial, technical and legal considerations.

Experience has also shown that a review of the National Energy Regulator Act needs to be undertaken in order to ensure that the gaps that have been identified can be addressed.

6. Situational analysis

6.1. Performance environment

NERSA undertook an environmental scan to assess the factors within the performance environment which would impact on the execution of its mandate. The environmental factors are considered within the context of NERSA, through the regulatory regime, facilitating economic development for:

- Security of energy supply;
- Investment in infrastructure;
- Competitive functioning of the industry; and
- Affordability and access.

With the current negotiations surrounding international agreements on climate change and biodiversity, the global community is involved in the collective responsibility and management of global ecological issues. South Africa is a signatory to the global and regional agreements and protocols on climate change.

South Africa's is reliant on coal as the main primary energy source in electricity generation in the short to medium term. Coal is one of the major contributors to green house gas emissions. This poses a challenge to NERSA in balancing the electricity needs of the country with cleaner energy requirements at affordable costs.

The National Government's renewed sense of urgency and focus on accelerated delivery of services is evidenced in the quantum of targets set such as, amongst others, the 100% access to electricity by 2014. This places a burden on NERSA in facilitating the achievement of the targets.

The high unemployment rate and increasing levels of poverty directly impact NERSA as determination of pro-poor tariffs is impinged upon by the inability of citizens to pay for electricity services.

Much as it is down played, talks of nationalisation within the political arena coupled with the decrease of foreign direct investment into South Africa may compromise the ability of NERSA in promoting and facilitating investments into the energy infrastructure.

Uncertainty and mixed policy messages about investment could be contributing to the potential flight of capital out of South Africa. A case in point is the decision of Sasol to invest billions of dollars in shale gas in Canada.

The fact that regulatory control in the entire supply chain of the regulated industries is limited, raise issues of NERSA's strategic positioning as well as policy gaps. Political dialogue is necessary to influence policy changes in this regard.

The escalation of crude oil prices, as it pertains to the reliance of the energy sector on crude oil in so far as input costs are concerned exposes the energy sector volatility. This places a

particular burden on NERSA in terms of promoting investment into energy infrastructure; promoting affordable access to energy; facilitating a conducive environment to the creation of competition within the industry and promoting the entry of HDIs.

The specific factors considered in the environmental scan are shown in the tables below:

Political Factors	NERSA response to the challenge
Political uncertainty (2012)	<ul style="list-style-type: none"> • NERSA must appropriately position itself
State led infrastructure expansion	<ul style="list-style-type: none"> • Ensuring a level playing field • Create and issue rules that are designed to clearly define the roles of government, NERSA and others • Price determination done such that Eskom could raise its credit rating • NERSA is to highlight the implications of the state led infrastructure expansion to the policy makers
"State capitalism"	<ul style="list-style-type: none"> • Assist DoE in creating awareness of policy • Proactive engagement with government
Manage interface between different policy thrusts of Government (new growth path, IPAP2)	<ul style="list-style-type: none"> • Make decisions that are not in conflict with the Acts • Identify points of contribution • Develop a position paper in this regard
Policy gaps and inconsistencies	<ul style="list-style-type: none"> • Thorough study of all the policies that NERSA is responsible for • Input into policy development / review • Highlight cost of projects, the impact and implications thereof i.e. IRP
Discussion / debate around nationalisation	<ul style="list-style-type: none"> • Efficiency in the operations of NERSA • Ensure investor confidence through our regulatory activities • Influence perception of investor risk (particularly in piped-gas)
Review of millennium goals (2014)	<ul style="list-style-type: none"> • Monitor targets after allocation has been done • Reporting back through media and media coverage
Presidential review on the organs of state / creation of a "super regulator" and collapse all regulators	<ul style="list-style-type: none"> • Profile NERSA in the public arena • Affirm NERSA's effectiveness and positioning • Monitor debate • Influencing the discussions • Engage with stakeholders • Stakeholder survey • Position NERSA as a low maintenance entity • Highlight the importance of an independent regulator in a political environment • Improve on current performance • Understand regulatory environment, who are the other regulators • Help / teach / learn from them (other regulators) • "Do what you do, well"
Developments in the Arab world	<ul style="list-style-type: none"> • Get statistics on oil demands • Proactively research and promote alternative sources of energy • Look at the referencing of the price of gas (reference against oil price may make gas less attractive as oil price rise)

Economic factors	NERSA response to the challenge
Risk of US, EURO debt default and the impact on emerging markets	<ul style="list-style-type: none"> • Review of tariffs in line with developments • Promote energy conservation • Create public awareness
Perception of imbalance between supply and demand	<ul style="list-style-type: none"> • Allow primary energy cost as a pass through cost • Develop and publish rules that will ensure that new capacity is built and commissioned on time
Inclusion of SA in the BRIC countries	<ul style="list-style-type: none"> • Factor in the existing BRICS agreements when setting and or approving prices • Understand the new demand
Impact of poverty	<ul style="list-style-type: none"> • Focus on pro-poor regulation
Capital flight (foreign and local)	<ul style="list-style-type: none"> • Create regulatory certainty
Africa has 2 of the top 5 oil producing countries	<ul style="list-style-type: none"> • Encourage country-to-country agreements
Double dip recession	<ul style="list-style-type: none"> • Create focus on 'pro-poor' interventions
Increased consumption of energy by China	<ul style="list-style-type: none"> • Regulatory advocacy • Regulate the stock piles • Promote the introduction of renewable energy in the energy mix (taking into account its limitations) • Increase the number of days that the coal stock piles must be
Inter-dependency of SADC on SA economy	<ul style="list-style-type: none"> • Create space to be able to facilitate the realisation of SADC countries' power plans
Wave of industrial action and the impact	<ul style="list-style-type: none"> • Encourage entities to have better risk management interventions
Tanzania found significant amounts of Gas	<ul style="list-style-type: none"> • Potential of country to country agreements
Oil majors leaving SA	<ul style="list-style-type: none"> • Monitor the status of the oil majors in South Africa and act accordingly
Impact of environmental levies on prices	<ul style="list-style-type: none"> • Highlight impact of environmental levies to policy makers • "pro-poor" regulation

Regulatory Factors	NERSA response to the challenge
Management of concurrent jurisdiction	<ul style="list-style-type: none"> Concluding of MoUs and MoAs with other regulators Regulatory advocacy Co-operate and help other regulators Build closer relationships with other regulators
Perception of independence of the Regulator	<ul style="list-style-type: none"> • Communication – particularly on how decision was reached (Not only on website – more personalised) • Structured stakeholder engagement
Consistency in policy applications by different regulators	<ul style="list-style-type: none"> • Harmonisation of regulatory methodologies (internally and externally) • Regulatory advocacy • Reviving structures such as the SA Regulators Forum
Compliance monitoring and enforcement	<ul style="list-style-type: none"> • Propose amendments to legislation • MoUs with the right departments that have more "teeth" • Work with different institutions in the country such as National Treasury, Auditor-General

Social Factors	NERSA response to the challenge
Increase in social delivery protests (consumer activism)	<ul style="list-style-type: none"> • Customer education • Public consultation • Mediation
NERSA's Impact on poverty	<ul style="list-style-type: none"> • Contribute to Learnership / internship / job creation • Inclining Block Tariffs (IBTs) and evaluation <ul style="list-style-type: none"> ○ Review and publicise ○ Assessing impact of IBTs ○ Further research to include the "working poor" • Possible money in tariff to train artisans
Resistance to energy infrastructure close to settlements	<ul style="list-style-type: none"> • NERSA to ensure that it is ready for expropriation
Non-technical losses	<ul style="list-style-type: none"> • Customer education • Monitor non-technical losses • Highlight legislative gaps to policy maker
Lack of skills	<ul style="list-style-type: none"> • Provide for industry specific skills training in the tariffs

Technological Factors	NERSA response to the challenge
Mode of transport is changing	<ul style="list-style-type: none"> • Monitoring and understanding the impact of technological developments on revenue streams and households • Engaging, researching and understanding
Changes in technologies	
Uncertainty / fears (Shale Gas and CNG)	
Smart meters and Smart Grids	
Sustainable / smart technologies to be utilized	
Nuclear	

Environmental Factors	NERSA response to the challenge
Growing awareness on environmental factors	<ul style="list-style-type: none"> • Utilising the MYPD to facilitate contributing towards the reduction of green house gas emissions
Environmental levies and Carbon tax	<ul style="list-style-type: none"> • Encourage and facilitate cooperation and coordination between decision making bodies • Allowing Transnet to recover land rehabilitation costs • Develop an integrated view going forward • Participation in the dialogue and educate the public regarding key environmental issues and NERSA decisions
Expiry of Kyoto protocol	
Lobbying against Shale Gas	
Delays in issuing environmental Impact Assessments	<ul style="list-style-type: none"> • Draw up MOU with role players • Monitor delays in construction • Assist licensees in achieving infrastructure development milestones

Legal Factors	NERSA response to the challenge
Review of the Acts	<ul style="list-style-type: none"> • NERSA is to pro-actively participate in any development / review of applicable legislation • Regulatory advocacy
Lack of enforcement provisions in the Acts	
Ability to influence supplementary legislation	
Compliance with regulatory requirements (PFMA and others)	
Electricity and Gas reticulation in the constitution	
Fragmentation of legislations	

Challenges and Risks

The environmental scan/situational analysis of NERSA's performance environment identified industry specific challenges and risks that have informed the formulation of the strategic objectives and the programmes as indicated in the 2012/13-2016/17 Strategic Plan and the 2012/13-2014/15 Annual Performance Plan. The identified challenges are listed below in respect of each of the three industries being regulated by NERSA as well as with respect to the cross-cutting regulatory and organisational environment.

Electricity Industry Regulation

a) *Challenges and risks*

(i) Demand and supply:

- Lack of Generation Capacity to meet the demand;
- No new capacity will become available until the 4th quarter of 2012;
- Major investments still required (R14m – R35m/MW);
- Introduction of carbon taxes which will result in increase in electricity costs;
- Risks associated with the implementation of the Integrated Resource Plan (IRP2010);
- Risk mitigation for late decisions or late projects;
- Energy efficiency and Demand Side Management (EEDSM) targets not achieved (8.5TWh/3000MW in 3 years);
- Lack of maintenance of the current generation fleet;
- Increased possibility of major failures (34 GO's postponed);
- High load factors and no cover by insurance; and
- Ageing infrastructure.

(ii) Transport and reliability:

- Transmission system operating at maximum capacity;
- Possible interruptions due to system overload;
- Ageing infrastructure;
- Lack of system maintenance;
- Protection schemes test postponed;
- Transmission system expansion delays;
- Permits / authorisation delays;
- Limited permutations for power transfer/transportation; and
- Redundancy (N-1) compromised.

(iii) Distribution and reticulation:

- Non optimal maintenance of the distribution infrastructure;
- Lack of funds and capability in some areas;
- Varying tariffs, services, quality between licensees;
- Customer mix variations;
- Revenue collection and non technical losses;
- Different economic growth strategies within Municipalities;
- Distribution infrastructure operating at maximum capacity;
- System overload and interruptions; and

- Ageing infrastructure.

(iv) Access, affordability, investments

- Projected price path for MYPD3;
- Price increases still above inflation (approx 19% per annum);
- International competitiveness for exporting industries is still positive;
- Local industries will be negatively affected by the increase in electricity costs;
- Affordability of services threatened (Bad debt and theft increased);
- Customisation of the IBTs;
- Renewable Energy increase (43% by 2030);
- The cost of renewable energy will be R50bn by 2016;
- Security of supply is not necessarily guaranteed by the introduction of renewable energy;
- Limited or no off-grid investments; and
- Access targets will not be met.

b) Priorities / mitigation strategies:

In mitigating against these challenges and risks, the following priorities have been identified with regards to the regulation of the electricity industry:

- Finalisation and promulgation of IRP2010 implementation rules;
- Assignment of roles and responsibilities in the implementation of the IRP2010;
- Development of risk mitigation strategies;
- MYPD3 submission by Eskom and processing of the application;
- Public consultation and education planning;
- Analysis of MYPD2 results and impact;
- Customisation of the IBTs;
- Credit rating and access to funds for the new build programme;
- Compliance enforcement and monitoring;
- Accuracy of inputs and costs;
- Implementation of approved and funded projects;
- Licensing process streamlining for IPPs;
- IPP friendly evaluation process from tendering to licensing;
- Relieve demand and stress on the Eskom Balance sheet;
- Energy Efficiency and Demand Side Management;
- Facilitation of growth;
- Affordability enhancement;
- Contribution to the lessening of greenhouse gas emissions;
- Energy Conservation Scheme for emergency conditions;
- Avoiding blackouts and black starts; and
- Create space for maintenance of the generation fleet.

Piped-Gas Industry Regulation

a) Constraints

- *The Agreement Concerning the Mozambican Gas Pipeline between the Government of the Republic of South Africa and Sasol Limited, including Schedule One thereof* ("the

Agreement") prescribes Sasol's price setting methodology, certain tariffs, exclusivity conditions and a price capping mechanism until approximately 2014;

- Lack of alternative gas sources and investors;
- Highly compliance focused due to the Agreement;
- Supposedly 'light handed' tariffs and pricing but paradoxically requires more pro-active involvement;
- Creating market structure - preparing market for arrival of competition or new gas finds;
- Increasing electricity prices are rendering gas, such as Liquid Natural Gas (LNG), more attractive, especially for electricity Generation;
- Difficult to promote natural gas as a 'greener source' of energy with paucity of domestic gas finds;
- Chicken or egg cliché still holds true – anchor customer for LNG terminal remains elusive;
- Single largest hurdle in growing the gas market is the paucity of Natural Gas finds; and
- Currently relying on Mozambican imports. Therefore growing supply is reliant on imports and domestic exploration.

b) Risks

- The lack of gas sources will result in no investments and consequently no competition;
- Insufficient gas to supply existing or future customers;
- No new gas finds;
- No investment in new pipeline infrastructure;
- Incentives to use natural gas near-exclusively for GTL at Secunda;
- Anti-competitive conduct by incumbent successfully bars entry and results in high prices and tariffs;
- Moratorium shale gas exploration – is this indefinite?
- SA misses window of low LNG prices;
- No significant uptake of LNG for electricity generation (coal remains dominant, nuclear fired generation gains in prominence);
- Open Cycle Gas Turbine (OCGT) stations not converted to Closed Cycle Gas Turbines (CCGT);
- The electricity generated through CCGT in not adjusted upwards in the IRP2010; and
- Legal challenge of maximum prices and tariff methodologies prevent NERSA from effectively subjecting Sasol Gas to economic regulation (resulting in higher prices and tariffs, deterring entry).

c) Challenges

- Loss of credibility and regulatory reputation can deter development of the gas market;
- New order mining rights in terms of MPRDA, e.g. moratorium on shale gas exploration after exploration licence granted to Shell;
- Calls for nationalisation of the mines and Sasol;
- Customer education on Market Value Pricing (MVP) and fear of intimidation;
- Lack of coordination with other regulators (e.g. PASA) can cause administrative burden to new entrants;
- Mandate creep by DoE and lobbying by incumbents; and
- Lack of critical skills in economic regulation of piped-gas (specialist legal and economic skills).

d) Priorities / mitigation strategies

In mitigating against these challenges and risks, the following priorities have been identified with regards to the regulation of the piped-gas industry:

1. Development of a gas market;
 - a. monitor trends alternative sources of supply (LNG, shale, CBM etc);
 - b. NERSA dialogue on impediments to gas infrastructure investment;
 - c. Participate in Gas Act review;
 - d. Combine licensing knowledge with national dialogue and advise DoE on ensuring an anchor customer for gas; and
 - e. Review of the Gas Act (incorporate currently unlicensed activities and clarity of infrastructure planning).
2. Sending correct price signals;
 - a. Implement RRM to overcome information asymmetry;
 - b. Market value pricing investigations;
 - c. Establish and implement maximum pricing methodology in terms of s21(1)(p);
 - d. Tariff guidelines implemented for Sasol, Transnet, Rompco; and
 - e. Enforce pricing provisions of the Agreement.
3. Promote entry and competition;
 - a. Licence construction applications within statutory deadlines;
 - b. Licence conditions – excise undeveloped distribution areas;
 - c. Benchmark licence conditions;
 - d. Compliance framework implementation and monitoring;
 - e. Third Part Access enforcement and advocacy; and
 - f. Advocacy and coordination at exploration stage, e.g. liaising with PASA, INP.
4. Create regulatory certainty;
 - a. Build a reputation as a credible and predictable regulator;
 - b. Provide incumbents and new entrants with documented decisions;
 - c. Advocacy and stakeholder education;
 - d. Facilitating entry, third party access and a clear tariff framework; and
 - e. Fill policy gaps by participating in any review of Gas Act and Regulations.

Petroleum Pipelines Industry Regulation

a) Risks:

- Regulatory certainty
 - PASA awarded prospecting licences for shale gas to Shell, Sasol and others;
 - Cabinet decided to suspend shale gas prospecting;
 - Minister of Transport has intervened in Airports Regulator on tariffs issues. What does this say about regulatory independence and certainty?
- Inland Security of Supply;
- Line fill;
- Possible legal challenge;
- Pipeline capacity shortages would have led to shortages of supply inland. The recession “saved” the inland market from those shortages. Now recession is ending – 2011 is a tight year;
- The inland fuel demand in 2011 exceeds the pipeline capacity which will require road and rail to take up the slack. This will increase the number of trucks on the road (with the associated costs of road transport on the infrastructure) from 68 to 117 per day;
- The riskiest period therefore is up to the end of 2011;

- Transnet's Mitigation strategy until the New Multi-Product Pipeline (NMPP) is finished is to use both old and new pipelines in parallel as well as road and rail;
- Because it is not clear who will pay the R1.1bn required to fund the line fill this has resulted in construction delay; and
- There is a risk of the NMPP being ready whilst the line fill is not, resulting in the inability to meet inland fuel demand.

b) Challenges

- Big infrastructure projects: regulating for construction delays and cost escalations/ regulating market entry;
- Third party access to storage is not working as the Act intended as Oil companies are vertically integrated;
- Oil companies are investing in storage; merchant oil companies are showing interest; allocations mechanism guidelines have been published and Allocation mechanisms are trickling in;
- The construction delays are resulting in increased capital costs which will attract higher tariffs. The challenge for NERSA will be in determining prudently incurred costs;
- In terms of facilitating market entry NERSA is challenged by the fact that the Petroleum Pipelines Act is silent on competing applications;
- The issue of who bears the risk of delays in late delivery and cost over runs challenges NERSA in so far as fair allocation between customers and investors;
- The lack of unified petroleum regulation due to multiple regulators is resulting in boundary demarcation issues; timing of decisions (synchronizing); regulatory burden (e.g. different regulatory accounts) and licensees playing one off against another;
- There is an information gap due to lack of industry data. SAPIA stopped publishing RSA sales data 18 months ago;
- Whilst the filling of posts and training particularly in financial skills takes place, NERSA will be partially reliant on consultants for the foreseeable future; and
- The lack of capacity and shortage of skills both within the organisation and within the SMME sector is putting a strain on the ability of NERSA to timeously process applications.

c) Priorities / mitigation strategies

In mitigating against these challenges and risks, the following priorities have been identified with regards to the regulation of the petroleum pipelines industry:

1. Tariffs:
 - a. Setting/approval of tariffs;
 - b. Review of tariff methodologies (pipelines and storage and loading facilities);
 - c. Publication of data; and
 - d. Benchmarking.
2. Licensing:
 - a. Timely decisions on applications for construction, operation, amendment of licences and revocation of licences.
3. Monitoring and compliance:
 - a. Monitoring and inspections of licences issued; and
 - b. Identification of and appropriate action against unlicensed facilities
4. Data collection and analysis;
5. Access:

- a. Common carriage and 3rd party access: monitoring facilitation and enforcement.
6. Monitoring security of inland supply.

Cross-Cutting Regulatory

a) Challenges:

- To manage the information asymmetry between NERSA and the licencees;
- To advise policy makers of NERSA views, policy gaps and NERSA's mandate;
- To identify and seek remedies to weaknesses and gaps in industry legislation experienced by NERSA;
- To consult government departments and economic regulators in pursuit of NERSA's strategic objectives. Publicize regulatory processes, frameworks and rules;
- To enhance NERSA's credibility, legitimacy, sustainability and image through quality decisions, consistent approach, consultation and information disclosure;
- To be constantly alert to shifts in NERSA's mandate;
- To coordinate NERSA activities with other regulators with concurrent jurisdiction;
- To keep abreast with new developments and adapting regulatory tools for increasing sophistication in the energy business;
- To assess NERSA's processes and methodologies against best in world practices through regulatory analysis, research, benchmarking and auditing; and
- To sustain the institutional memory of the Energy Regulator.

6.2. Stakeholder Analysis and Engagement

NERSA is dependent on sound relationships with stakeholders based on trust and credibility. However, trust is built by keeping channels of communication open and clear, and by making sure that all publics have access to information, by consulting and listening to stakeholders and by being open, honest and transparent at all times.

The Stakeholder Analysis and Engagement will be aligned with the Integrated Communication Strategy and implemented according to the Action Plans within the Strategy. In order to understand the important stakeholders of NERSA as well as all factors impacting on the relationship between NERSA and its stakeholders, an approach was followed to segment stakeholders into specific groups:

1. Normative Stakeholder Group

Normative groups provide the authority for NERSA to function and the organisation is dependent on their co-operation and goodwill. They are NERSA's stakeholders and are critical for NERSA in the accomplishment of its mission. They have the ability to influence the course of our regulatory functions or existence. These target groups include the Portfolio Committee on Energy; all Parliamentarians and government departments such as the Ministry and Department of Energy; Ministry and Department of Public Enterprises; Ministry and Department of Finance (National Treasury); Ministry and Department of Cooperative Governments and Traditional Affairs; National Planning Commission; Work streams established by the Inter Ministerial Committee; and Auditor-General. NERSA should be actively involved in interacting with decision-makers such as Parliament and Government.

The approach in dealing with these stakeholders is to keep them informed through regular consultation and monitoring of developments within the energy industry.

2. Functional Groups

Functional groups directly affect many of the day-to-day activities of NERSA. It's most important target group is its employees because the credibility of NERSA is mainly determined by the output of its employees. Various employees interact on different levels and on a regular basis with external stakeholders and they act as the doors and windows of the organization. The better informed they are, the more efficient and credible NERSA is perceived to be. This means that well-informed, empowered and committed NERSA staff can play a very important role as ambassadors of the organization. However, this group also includes Energy Regulator Members who have an influence on the functions and policies of the organisation, as well as interact on a strategic level with government and parliamentarians. The functional groups can be divided into the following sub-groups:

- A management public such as the Executive Management and Heads of Departments;
- A specialized public, which consists mainly of Functional experts & professionals in the technical, financial, economic, customer and support services areas who communicate horizontally and across channels within the organisation;
- An administrative public, which consists of people who work mainly with administrative tasks and who communicate across organisational boundaries.

NERSA's vision is to be a world-class leader in energy regulation. In order to achieve this vision, NERSA needs to keep their functional stakeholders informed and involved about developments within NERSA and the energy industry on a regular basis. This will ensure loyalty by staff and keep them motivated to perform effectively and efficiently.

'An informed employee is an inspired, motivated and productive employee'.

3. Public groups

Public groups are those dependent on the organisation for the rendering of a specific service and those who are affected by the decision-making of NERSA. They include the following:

- Utilities, Investors and Licencees
Eskom, Eskom Enterprises, Metro Councils Local Municipalities, Other Distributors, Transnet, PetroSA, iGas, Shell, Transnet Pipelines, Sasol Gas, All big oil companies, Sasol Oil and Engen. It is mutually beneficial to maintain a meaningful relationship by sharing needs, perceptions and values. It is important to share information on new projects, progress made on existing ones, successes and breakthroughs.
- Customers
 - Industrial: they are major stakeholders of NERSA and account for 35% of the electrical energy consumed in South Africa. They play an important role in the economic growth, prosperity and development of South Africa. They have a major interest in the outcome of the management and restructuring of the electricity industry. NERSA needs to form close relationships with them through active involvement, engagement and participation in energy-related activities, which have a bearing on the business of energy intensive consumers;

- Commercial, agricultural, and residential (urban/rural): NERSA needs to form closer relationships with them through active involvement, engagement and participation; and
- Customer and end user forums need to be established for electricity customers as per Section 6 of the Electricity Regulation Act.

These stakeholders need to be engaged and encouraged to actively participate in the Energy Regulator's processes by being accessible, honest and transparent at all times. This will create credibility and confidence of NERSA's ability to effectively execute its mandate.

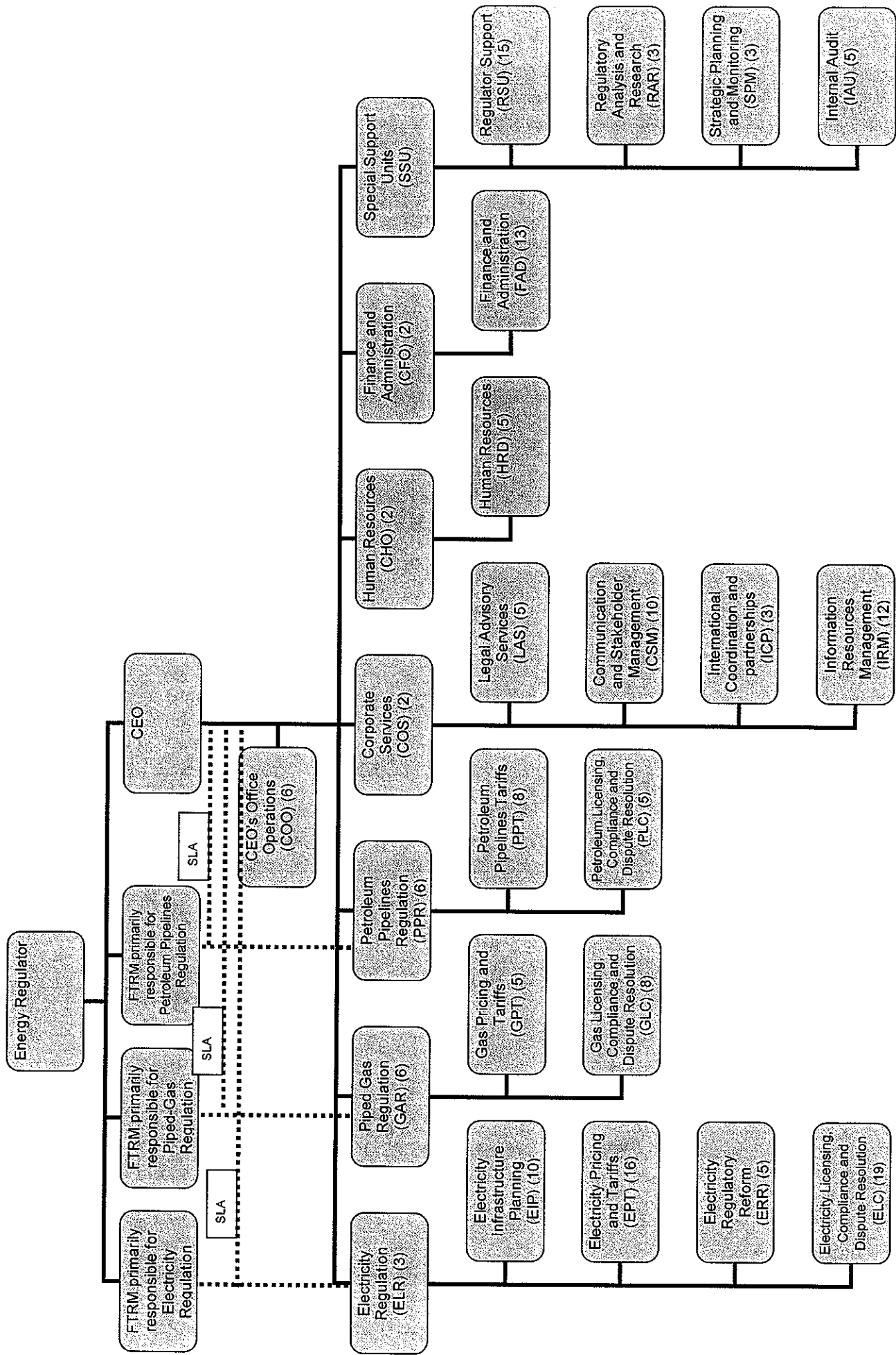
4. Diffused groups

Diffused groups are particular types of stakeholders who are concerned about protecting the rights of other people. They include the media; non-governmental organisations; community-based organisations; special interest groups such as academic institutions; associations/organisations/Unions; and political parties. NERSA needs to form closer relationships with them through active involvement, engagement and participation.

NERSA need to engage and interact with these stakeholders as partners. In this regard, proactive actions will be taken to respond to them and clarify to them NERSA's role and functions

6.3. Organisational environment

Following is the approved NERSA Organisational Structure:



During 2010/11, NERSA managed to fill 93.7% of positions in the approved structure of 168 positions. The Energy Regulator approved the implementation of a revised structure from 2011/12, with a revised staff complement of 177 positions. Currently the new structure is 85% populated indicating challenges of under capacitation. The lack of specialized industry specific technical skills in both core business and support functions makes NERSA utilise consultants from time to time. NERSA is committed to resourcing the organisational appropriately to achieve its goals.

Staff complement

The table below summarises the staff complement of NERSA.

DIVISION	DEPARTMENT	TOTAL NERSA
Electricity Regulation (ELR)	Executive	3
	Electricity Pricing and Tariffs (EPT)	16
	Electricity Licensing, Compliance and Dispute Resolution (ELC)	19
	Electricity Regulatory Reform (ERR)	5
	Electricity Infrastructure Planning (EIP)	10
Piped-Gas Regulation (GAR)	Executive	6
	Gas Pricing and Tariffs (GPT)	5
	Gas Licensing, Compliance and Dispute Resolution (GAC)	8
Petroleum Pipelines Regulation (PPR)	Executive	6
	Petroleum Pipelines Tariffs (PPT)	8
	Petroleum Licensing, Compliance and Dispute Resolution (PLC)	5
Finance and Administration (CFO)	Executive	2
	Finance and Administration (FAD)	13
Human Resources (CHO)	Executive	2
	Human Resources (HRD)	5
Corporate Services (COS)	Executive	2
	Legal Advisory Services (LAS)	5
	Communication and Stakeholder Management (CSM)	10
	International Co-ordination and Partnerships (ICP)	3
	Information Resources Management (IRM)	12
Specialised Support Units (SSU)	Internal Audit (IAU)	5
	Strategic Planning and Monitoring (SPM)	3
	Regulator Support RSU)	15
	CEO's Office Operations (COO)	6
	Regulatory Analysis and Research (RAR)	3
Total Number of NERSA staff		177

Organisational challenges

The table below highlights the specific organisational challenges and mitigating strategies:

Organisational Issues	Threat posed by the factor	Opportunity presented by the factor	NERSA response to the challenge
People	<ul style="list-style-type: none"> • Ability to attract and retain requisite skills • Loss of skills within the industries • Need for critical and scarce skills • Growth ceiling within the organisation, there is no room for growth for certain skilled individuals • Employees experience working / operational environment 'hassles' 	<ul style="list-style-type: none"> • An opportunity exists to help employees to love their jobs and perform at an optimal level • Development of a management, leadership style and organisational culture • Development of key skills where possible 	<ul style="list-style-type: none"> • Review of exit interviews - understand where skills are going to and the reasons thereof • Develop a uniform culture (NERSA is currently conducting a culture survey) • Encourage internal job rotations • Review current operations model (to amend organisational structure issues) • Review of findings from people and or organisational surveys conducted in the past and implementing relevant recommendations
Processes	<ul style="list-style-type: none"> • A gap exists in our institutional memory • Supply chain / procurement processes 'cripple' operations and productivity 	<ul style="list-style-type: none"> • Regulatory processes need to be reviewed 	<ul style="list-style-type: none"> • Develop a balance between compliance and procurement efficiencies • Undertake a business process review exercise to streamline, automate, re-engineer, document and workshop with all users
Enabling technology	<ul style="list-style-type: none"> • NERSA has a culture of 'information over-load' 	<ul style="list-style-type: none"> • An opportunity exists to improve the current IT systems and integrate where possible 	<ul style="list-style-type: none"> • Develop knowledge management processes and systems • Automate and send documents electronically • Adopt a resourcing policy model
Conducive working environment	<ul style="list-style-type: none"> • NERSA has poor "hygiene factors" such as lifts, safety regulations etc. 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Develop and implement an internal workspace enhancing strategy

6.4. Description of the strategic planning process

Background

At the Energy Regulator meeting of 15 June 2007, the Energy Regulator approved the establishment of the Regulator Executive Committee (REC). As part of its terms of reference, the REC has to recommend the draft Strategic Plan and Business Plan to the Energy Regulator for consideration.

The REC decided at its meeting of 7 April 2008, that the strategic planning process for 2009/10 will be as follows:

- The REC will conduct a Strategic Planning session in May 2008 where the Strategic Framework and Intent for NERSA for the Medium Term Expenditure Framework (MTEF) period 2009/10 – 2011/12 will be discussed.

- Divisional Strategic Planning Sessions will be held. At these sessions, issues specific to the activities of the division will be considered.
- NERSA Management Committee (MANCO) is to have a Strategic Planning Session in June where proposals on how to operationalise the Strategic Framework and Intent for 2009/10 – 2011/12 will be developed.
- During July 2008, the proposal from Manco will be considered by the REC and the REC will make recommendations to the Energy Regulator for consideration at the Energy Regulator Strategic Planning Session and at its meeting at the end of July 2008.

Due to the success of this process, it was decided that a similar process will be followed for the development of every Strategic Plan and Business Plan / Annual Performance Plan from then on.

REC Strategic Planning Session

The REC held a strategic planning session on 4 July 2011. At this session, the REC:

- Was introduced to the new Framework for the development of Strategic Plans as published by National Treasury in August 2010;
- Deliberated on the Vision;
- Deliberated on the Mission;
- Deliberated on the Values;
- Deliberated on the Regulatory Principles;
- Deliberated on the Mandate;
- Deliberated on the Government outcomes and NERSA's role in this regard; and
- Deliberated on the strategic goals for NERSA for the period 2012/13 – 2026/17.

Following the REC strategic planning session, each one of the regulator members primarily responsible for the regulation of the three industries being regulated by NERSA, indicated the priorities for NERSA for the three years in the MTEF planning cycle. These are:

a) Electricity Industry Regulation:

- i. Conclusion of all documents that will facilitate the security of supply
 - Power Purchase Agreements and associated agreements authorisation
 - Implementation Agreements authorisation
 - Transmission, Distribution use of system charges approvals
- ii. MYPD2 evaluation and MYPD3 preliminary assessment
 - Capex evaluation
 - Efficiency extraction
 - Future price path
 - MYPD2 impact
- iii. Municipality tariff approval and Inclining Block Tariffs customisation
 - Information accuracy
 - Sustainability assessments
 - Appropriate tariff blocks
 - Compliance monitoring (tariffs, maintenance, capital projects, etc)
- iv. Customer or end user forum establishment
 - NERSA positioning
 - Information sharing and gathering

- v. Streamlining of processes
 - Licensing
 - Tariff evaluation
- b) Piped-Gas Industry Regulation:
- i. Development of a gas market;
 - monitor trends alternative sources of supply (LNG, shale, CBM etc);
 - NERSA dialogue on impediments to gas infrastructure investment;
 - Participate in Gas Act review;
 - Combine licensing knowledge with national dialogue and advise DoE on ensuring an anchor customer for gas; and
 - Review of the Gas Act (incorporate currently unlicensed activities and clarity of infrastructure planning).
 - ii. Sending correct price signals;
 - Implement RRM to overcome information asymmetry;
 - Market value pricing investigations;
 - Establish and implement maximum pricing methodology in terms of s21(1)(p);
 - Tariff guidelines implemented for Sasol, Transnet, Rompco; and
 - Enforce pricing provisions of the Agreement.
 - iii. Promote entry and competition;
 - Licence construction applications within statutory deadlines;
 - Licence conditions – excise undeveloped distribution areas;
 - Benchmark licence conditions;
 - Compliance framework implementation and monitoring;
 - Third Party Access enforcement and advocacy; and
 - Advocacy and coordination at exploration stage, e.g. liaising with PASA, INP.
 - iv. Create regulatory certainty;
 - Build a reputation as a credible and predictable regulator;
 - Provide incumbents and new entrants with documented decisions;
 - Advocacy and stakeholder education;
 - Facilitating entry, third party access and a clear tariff framework; and
 - Fill policy gaps by participating in any review of Gas Act and Regulations.
- c) Petroleum Pipelines Industry Regulation:
- i. Tariffs: setting/approval, methodologies, publication of data, benchmarking;
 - ii. Licensing:
 - Timely decisions on applications for construction, operation, amendment, revocation;
 - Monitoring and compliance: Monitoring and inspections of licences issued;
 - Identification of and appropriate action against unlicensed facilities
 - iii. Data collection and analysis
 - iv. Access: common carriage and 3rd party access: monitoring facilitation and enforcement
 - v. Monitoring security of inland supply

Divisional Strategic Planning Sessions

All divisions within NERSA and Special Support Units held Strategic Planning Sessions where the divisions spent time in deliberating on priorities, key challenges for each department, the key strengths and key weaknesses in each department as well as the risks facing the different departments. These were used to develop presentations in order to inform the Management Committee (Manco) as to the priorities, risks, strengths, weaknesses and risks facing every department.

Manco Strategic Planning Session

Manco held a strategic planning session on 6, 8 and 12 July 2011. At this session, taking the proposed goals by the REC as well as the priorities as indicated by the Full-Time Regulator Members into account, Manco:

- Was introduced to the new Framework for the development of Strategic Plans as published by National Treasury in August 2010;
- Deliberated on the Government outcomes and NERSA's role in this regard;
- Deliberated on departmental priorities, risks, strengths, weaknesses and risks;
- Unpacked the strategic goals as proposed by the REC into key performance indicators and targets;
- Deliberated on the situational analysis (PE(R)STEL Factors Analysis, SWOT Analysis and Stakeholder Analysis);
- Proposed programmes for NERSA for the period 2012/13 – 2016/17, taking the strategic goals as proposed by the REC into account; and
- Deliberated on proposed departmental input into the Annual Performance Plans pertaining to the strategic objectives, annual targets for the strategic objectives, key performance indicators for the strategic objectives, quarterly targets for the key performance indicators for the 2012/13 financial year and key projects for every strategic objective.

Following the Manco Strategic Planning Session, a draft Strategic Plan (2012/13 – 2016/17) was developed. Apart from this the Annual Performance Plan (2012/13 – 2014/15) was also developed.

Energy Regulator Strategic Planning Session

The Energy Regulator strategic planning session was held on 27 and 28 July 2011. During deliberation, the Energy Regulator:

- Was introduced to the new Framework for the development of Strategic Plans as published by National Treasury in August 2010;
- Deliberated on the 12 Outcomes of Government, the Minister of Energy's response to these and NERSA's role in achieving them;
- Deliberated on the challenges, risks and priorities facing the regulation of the electricity industry;
- Deliberated on the challenges, risks and priorities facing the regulation of the piped-gas industry;
- Deliberated on the challenges, risks and priorities facing the regulation of the petroleum pipelines industry;
- Deliberated on the implementation of the 2010/11 business plan and in particular focusing on the highlights and lowlights;

- Deliberated on the cross-cutting and organisational challenges, risks and priorities;
- Deliberated on the PE(R)STEL Factors Analysis and SWOT Analysis; and
- Deliberated on key performance indicators for the organisation.

Following the Energy Regulator Strategic Planning Session, the draft Strategic Plan (2012/13 2016/17) and Annual Performance Plan (2012/13 – 2014/15) were revised, taking the comments by the Energy Regulator account. The revised Strategic Plan (2012/13 2016/17) and Annual Performance Plan (2012/13 – 2014/15) were approved by the Energy Regulator at its meeting on 29 August 2011.

7. Strategic outcome oriented goals

The strategic outcome oriented goals of NERSA are cascaded from the mandate and reflect the Presidency identified twelve National outcomes as well as those of the Department of Energy. These goals attest to NERSA's role in facilitating the achievement of the national socio-economic and socio-political development agenda.

Strategic Outcome Oriented Goal 1	To facilitate Security of Supply in order to support sustainable economic development in South Africa
Goal Statement	To facilitate through regulation that South Africa's current and future energy needs are secured
Link to Department of Energy outcome(s)	Delivery on IRP
Link to national outcome(s)	Environmental assets and natural resources that are well protected and continually enhanced
Strategic Outcome Oriented Goal 2	To facilitate investment in infrastructure in the energy industry to support sustainable economic development in South Africa
Goal Statement	To facilitate investment in new infrastructure and maintenance of existing infrastructure through regulating the electricity, piped-gas and petroleum pipelines industries
Link to Department of Energy outcome(s)	Liquid Fuels Infrastructure. LPG Regulations
Link to national outcome(s)	An efficient, competitive and responsive economic infrastructure network
Strategic Outcome Oriented Goal 3	To promote competitive and efficient functioning of the energy industry in order to sustain economic development in South Africa
Goal Statement	To promote efficiency and competition to lower the costs of energy provision
Link to Department of Energy outcome(s)	Create a competitive and efficient energy market
Link to national outcome(s)	A long and healthy life for all South Africans
Strategic Outcome Oriented Goal 4	To facilitate affordability and accessibility in the energy industry to balance economic interests of all stakeholders in support of economic development of South Africa and a better life for all
Goal Statement	To balance the needs of all stakeholders and contribute to Government's targets of affordability and accessibility by setting prices and tariffs in a cost reflective manner with an emphasis on pro-poor regulation
Link to Department of Energy outcome(s)	Integrated National Electrification Programme
Link to national outcome(s)	Decent employment through inclusive economic growth
Strategic Outcome Oriented Goal 5	To position and establish NERSA as a credible and reliable regulator in order to create regulatory certainty
Goal Statement	To ensure regulatory certainty through consistency, fairness and transparency in regulatory decision making
Link to Department of Energy outcome(s)	Profiling the work of the department and that of the energy sector
Link to national outcome(s)	An efficient, effective and development oriented public service and an empowered, fair and inclusive citizenship

PART B: PROGRAMME AND SUB-PROGRAMME PLANS

7.1 Strategic objectives

The strategic objectives of NERSA expressed as the desired end state of the energy industry are stated as:

- Regulatory environment facilitates investment in energy infrastructure;
- Energy supply is certain and secure for current and future user needs;
- Fair competition exists within the energy industry;
- Regulatory certainty exists within the energy industry;
- Energy is accessible and affordable for all citizens; and
- NERSA is established and positioned as a credible and reliable regulator.

In order to achieve its outcome oriented goals NERSA will deliver on its strategic objectives through the following structured programmes:

- Setting and/or approving tariffs and prices;
- Licensing and registration;
- Compliance monitoring and enforcement;
- Dispute resolution including mediation, arbitration and the handling of complaints;
- Setting of rules, guidelines and codes for the regulation of the three industries; and
- Establishing NERSA as an efficient and effective regulator.

Collectively the programmes form the core regulatory functions of NERSA as stipulated in the mandate. The programmes are defined as the main areas of service delivery responsibility within NERSA's mandate.

The above programmes' strategic objectives are discussed below in respect of each of the three industries being regulated by NERSA as well as with respect to the cross-cutting regulatory and organisational environment

With regard to resource considerations, Section 13 of the National Energy Regulator Act requires the following:

- The National Energy Regulator must perform its functions in accordance with the Public Finance Management Act;
- The National Energy Regulator must keep separate accounts for the electricity, piped-gas and petroleum pipelines regulatory functions; and
- The costs of the National Energy Regulator must be shared between the electricity, piped-gas and petroleum pipeline regulatory functions in proportion to the costs incurred by the Energy Regulator in respect of each of those regulatory functions.

In view of the above, a methodology was developed in order to ring-fence the budgets and financial statements for the three regulated industries.

Using this methodology the resource considerations for every programme will be divided into the three regulated industries rather than aggregated across the organisation.

ELECTRICITY INDUSTRY REGULATION

Electricity Industry Regulation Programme 1: Setting and/or approval of tariffs and prices

Strategic Objective 1.1	To ensure municipalities are sustainable within the ring fenced electricity business.
Objective Statement	To approve municipal tariffs that ensure the financial viability and sustainability of all licensed municipal distributors while also protecting the poor from rapidly increasing electricity prices.
Baseline	To be determined in 2012/13
Justification	Municipalities are a critical stakeholder in ensuring universal access to electricity at affordable prices. Municipalities are also critical in achieving the Government's objectives that are built around creating a better life for all the citizens of South Africa. Municipalities must therefore be provided with sufficient resources that will make them both financially viable and sustainable in the short, medium and long-term
Strategic Objective 1.2	To ensure the sustainability of Eskom and the ESI
Objective Statement	The approve Eskom's revenue requirements and prices/tariffs that allows for the sustainability of Eskom and therefore the overall viability of the electricity supply industry.
Baseline	To be determined in 2012/13
Justification	Eskom is a key player in the electricity supply industry of South Africa providing generation and transmission and distribution services in the industry. 96 % of generation is provided by Eskom and municipalities purchase nearly all of their electricity requirements from Eskom. Eskom is also responsible for 100 % of the transmission services in SA. It is therefore critical that all efforts be made to maintain the integrity and viability of Eskom as this will always be the viability of the ESI itself. Eskom is also a key player in the South African economy and electricity a key contributor to the Gross Domestic Product (GDP) of the country. Also electricity is a key input in most manufacturing processes in the country and the region. The sustainability of Eskom therefore, influences the sustainability of the ESI and the economy

Electricity Industry Regulation Programme 2: Licensing and registration

Strategic Objective 2.1: Objective Statement	To control entry and ensure orderly development of the Electricity industry <ul style="list-style-type: none"> • To ensure that all licence applications for entry into the ESI conform to the requirements of the Electricity Regulation Act and IRP rules; and • To ensure that NERSA oversee orderly development of the electricity industry
Baseline: Justification:	To be determined in 2012/13 financial year Licence applications involve investors, developers and ultimately customers and end-users as well as the public once the electricity infrastructure is constructed. Therefore the licence applications should be processed such that all the interests of stakeholders are balanced. For instance, the investors should be allowed a reasonable return in investment especially diverse sources such as renewable energy that are in the IRP while the customers and end-users receive good quality of supply and good quality of service from the infrastructure. Licensing of new generators ensures security of supply for the country and consequently a vibrant economy.

Electricity Industry Regulation Programme 3: Compliance monitoring and enforcement

Strategic Objective 3.1:	To enforce compliance to the quality and reliability level of electricity supply.
Objective Statement	To ensure that all licensees comply to their licence condition, grid codes and regulatory standards
Baseline	To be determined in 2012/13 financial year
Justification	To ensure that the needs of current and future energy users are safeguarded and met by enforcing the performance of licensees to achieve the security and a good quality of supply in the quest to attain economic development in South Africa.
Strategic Objective 3.2:	To ensure efficient operation of the licensed activities
Objective Statement	To ensure that all licensees operate efficiently and effectively according to the licence conditions issued to them
Baseline	To be determined in 2012/13 financial year
Justification	Efficient operation will lead to efficient pricing which will ensure that their tariffs meet affordability requirements of current and future energy users.

Electricity Industry Regulation Programme 4: Dispute resolution including mediation, arbitration and handling of complaints

Strategic Objective 4.1	To create a fair balance between the needs of all stakeholders
Objective Statement	To ensure that there is fair play within the electricity supply industry amongst all the stakeholders including end-customers and licensees
Baseline	To be determined in 2012/13 financial year
Justification	To ensure that there is a level playing field in such a way that all interested and affected parties' rights and obligations are exercised in a fair and equitable manner.

Electricity Industry Regulation Programme 5: Setting of rules, guidelines and codes for regulation

Strategic Objective 5.1:	To ensure non-discriminatory access to the electricity infrastructure
Objective Statement	<ul style="list-style-type: none"> To ensure requests for amendment and/or exemptions to the codes by interested and affected parties including new entrants (IPPs) are considered. To ensure that the setting of rules and guidelines promote fair access for all participants.
Baseline	To be determined in 2012/13 financial year
Justification	To ensure that codes of best practices are implemented in the quest to promote uniformity and standardise practices relating to issues of a similar nature – thus harmonization.
Strategic Objective 5.2:	To facilitate investment in the ESI
Objective Statement	<ul style="list-style-type: none"> To develop and implement rules and guidelines that will facilitate infrastructure development and incentivise the use of diverse energy sources and promote energy efficiency. To monitor supply/demand balance and the build program based on the IRP.
Baseline	43GW
Justification	To facilitate investment in the electricity supply industry. Investors and developers need a sound regulatory framework to ensure that they receive the expected returns for their investment.

Electricity Industry Regulation Programme 6: Establishing NERSA as an efficient and effective regulator

Strategic Objective 6.1:	To facilitate the effectiveness of NERSA in the electricity industry
Objective Statement	To promote the image and exposure of NERSA by ensuring the establishment of the end-user forums amongst the licensees
Baseline	To be determined in 2012/13 financial year
Justification	To promote participation of interested parties including end-users in the electricity services of the licensees in order to ensure that there is harmony and understanding of the way the electricity industry functions. In this way issues of tariffs, security, reliability and quality of supply; quality of services; safety; etc.; will be discussed in these end-user forums to ensure that everyone understands their roles and responsibilities

PIPED-GAS INDUSTRY REGULATION

Piped-Gas Industry Regulation Programme 1: Setting and/or approval of tariffs and prices

<p>Strategic Objective 1.1 Objective Statement</p>	<p>To approve prices in line with the published price methodology</p> <p>To ensure affordable, equitable and reasonable gas prices</p>
<p>Baseline</p>	<p>Currently, there is no methodology or guidelines to approve maximum prices for licensees. Current maximum and minimum prices are determined in terms of the Schedule One to the Agreement which does not cover licensees not regulated by the Agreement; and the pricing provisions do not achieve the equitability and competitive price levels. The pricing formula and methods stipulated in Schedule One to the Agreement will expire in March 2014.</p>
<p>Justification</p>	<p>This will ensure that prices are equitable and at competitive levels. This will also assist in creating regulatory certainty which will help in attracting much needed investment into the piped-gas industry as future investors will know what to expect from the Regulator once they have entered the market</p>
<p>Strategic Objective 1.2 Objective Statement</p>	<p>To approve and monitor tariffs in line with the published tariff guidelines</p> <p>To ensure affordable, equitable and reasonable tariffs</p>
<p>Baseline</p>	<p>Current tariffs are determined in terms of Gas Transportation Agreements, which are not necessarily cost reflective, and do not conform to the current Tariff guidelines. NERSA only approves and monitor tariffs. In addition NERSA does not approve, monitor or regulate tariffs for distribution and regasification.</p>
<p>Justification</p>	<p>NERSA needs to interrogate the tariffs on these contracts to avoid transfer pricing, and to ensure the tariffs conforms to the objectives of the Gas Act. Furthermore, the introduction of storage activities in the industry requires NERSA to monitor and approve storage tariffs.</p>
<p>Strategic Objective 1.3 Objective Statement</p>	<p>To implement pricing provisions of schedule 1 to the Agreement</p> <p>To ensure that the pricing provisions as stipulated in schedule 1 of the Agreement is implemented. This will include the following:</p> <ul style="list-style-type: none"> • To implement the price capping mechanism • To approve and enforce the maximum prices for various customer categories • To enforce discounts to small customers • To enforce compliance to Market Value Pricing

Baseline	<ul style="list-style-type: none"> Less than 5% of the customers qualify for the maximum prices prescribed by Schedule One to the Agreement. In the case of Brownfields customers, only additional quantities purchased after First Gas by Brownfields customers purchasing a total of between two and eight million Gigajoules per annum are subject to the maximum price levels, but only from 26 March 2009. Prices of gas with all distributors and reticulators are currently subject to certain maximum price levels. However, prices for distributors and reticulators purchasing quantities in excess of ten (10) million Gigajoules per annum are not subject to a maximum price level. 6 licensees are regulated by this clause and there were no cases of non compliance identified. Approximately 302 small customers receive discounts to small customers. In 2010/11, 48 cases of non compliance with the prescribed discounts were identified 70% of the complaints investigated indicated that Sasol Gas did not comply with Market Value Pricing
Justification	Enforcing of the pricing provisions of Schedule One to the Agreement is important so that gas is competitively priced and customers have the opportunity to contest the "alternative fuel" and the price of that fuel as assigned to the customer.

Piped-Gas Industry Regulation Programme 2: Licensing and registration

Strategic Objective 2.1:	To process all licence applications within the statutory deadline
Objective Statement	To issue licensing decisions within 60 days from the end of the comment period as applicable in order to ensure the orderly development of the piped-gas industry in an efficient manner.
Baseline	90% of all licence applications were finalised within statutory deadlines
Justification	The licensing within statutory deadlines is important to ensure that the Energy Regulator is able to discharge its responsibilities efficiently in the interest of an orderly development of the gas industry and to provide investor certainty
Strategic Objective 2.2:	To register gas imports and production
Objective Statement	To provide information regarding gas activities to the energy Regulator so as to anticipate licensing needs and new developments in terms of gas sources and technologies.
Baseline	10 operations engaged in the production and importation of gas were registered in 2010
Justification	The monitoring of developments in new gas sources, including the production and importation of gas is important as the Energy Regulator needs to have information of such developments to better position itself to provide strategic regulatory interventions and efficient service
Strategic Objective 2.3:	To develop the non financial reporting requirements of the RRM
Objective Statement	To provide a complete and accurate overview of licensees' data for monitoring performance and compliance.
Baseline	The RRM currently includes only financial information.
Justification	In evaluating prices, tariffs and licences, the ER requires comprehensive, up-to-date and accurate information to base its decisions on.
Strategic Objective 2.4:	To propose an implementation strategy for the gas to power component of IRP2010
Objective Statement	To facilitate the implementation of gas to power projects
Baseline	The IRP merely mentions the planned MWs in terms of OCGT and CCGT capacity but lacks an implementation strategy.
Justification	The NERSA is mandated to facilitate the growth and development of the piped-gas industry and the investment in gas-fired electricity generation is a critical step in this process by providing an anchor customer for a gas project.

Strategic Objective 2.5	To propose to the policy makers an implementation strategy for LNG
Objective Statement	To develop an implementation strategy for LNG and propose /present this strategy to the policy maker in order to stimulate the development of the piped gas industry.
Baseline	Currently there is no uptake of LNG for electricity generation. Coal remains dominant and nuclear fired generation gains in prominence.
Justification	To facilitate the growth and development of the piped gas industry and encourage infrastructure investment. .
Strategic Objective 2.6	To research alternative gas sources from specifically compressed natural gas (CNG), Shale gas and coal bed methane and underground coal gasification
Objective Statement	To provide information to the Energy Regulator on alternative sources of gas and ongoing exploration for Shale gas, CNG and coal bed methane gas for diversification of fuel sources and the development of the piped-gas supply industry.
Baseline	Desktop research was conducted on developments in gas industry, including continued explorations for Shale gas and production of CNG and UCG
Justification	The Energy Regulator needs to monitor the alternative sources of gas for diversification of fuel sources and the development of the piped-gas supply industry

Piped-Gas Industry Regulation Programme 3: Compliance monitoring and enforcement

Strategic Objective 3.1	To monitor the supply of 120m GJ p.a. from Mozambique to South Africa in terms of Schedule One of the Agreement
Objective Statement	To ensure sufficient gas to supply current and future users.
Baseline	Sasol has supplied between 100 and 110 MGJ per annum to the SA market, and only recently reached 120 MGJ p.a. As there is additional gas available and additional transmission capacity has been added to the ROMPCO pipeline, this volume should increase to > 120 MGJ p.a.
Justification	The Agreement places an obligation of Sasol Gas to use its best endeavours to supply 120 MGJ of gas to South African markets. The Energy Regulator, as the authority responsible for administration of the agreement, has a responsibility to monitor the volumes of gas supplied by Sasol Gas to South Africa from Mozambique through the ROMPCO pipeline. The enforcement and monitoring of Sasol Gas' obligation is also important to ensure security of natural gas supply to South African markets.
Strategic Objective 3.2	To enforce licence conditions with regard to competitive prices and conditions
Objective Statement	To enhance compliance with pricing and tariff provisions and to enforce fair price and tariffs in terms of the Gas Act
Baseline	Complaints received from customers indicate that NERSA has to be concerned about compliance to the Schedule One to the Agreement as three out of four of the investigations concluded indicated non compliance. Furthermore, NERSA is required by the Gas Acts to initiate investigations on activities.
Justification	Given the monopolistic nature of the piped-gas industry, it is important that customers are protected from the misuse of powers and excessively high prices. This is necessary to ensure the development of the piped-gas industry and to give incentives for further investment in the piped-gas infrastructure
Strategic Objective 3.3	To analyse compliance to the Regulatory Reporting Manual (RRM)
Objective Statement	To ensure compliance to the RRM's by the licensees
Baseline	Currently all gas licensees are part of the implementation of the RRM's and complying with the requirements
Justification	Given the vertically integrated entity which is dominant in all the levels of the value chain, it is important that information asymmetry is reduced by prescribing the procedure for submitting information. Furthermore, NERSA has to ensure separation of financial accounts for efficient financial performance of each activity and facility, and avoid cross-subsidization.
Strategic Objective 3.4	To determine and publish uncommitted capacity in transmission pipelines and storage facilities
Objective Statement	To provide access in and allocate capacity to third parties once NERSA has determined and published information on uncommitted capacity in gas transmission and storage facilities. This will facilitate competitive and efficient use of gas facilities.
Baseline	Since its inception, NERSA has not received applications or requests for third party access to gas transmission and storage facilities. Licensees have not published guidelines regarding the use of uncommitted capacity, and NERSA has not determined uncommitted capacity and allocated mechanism as required by Regulation 6 and 7 of the Regulations to the Gas Act.
Justification	Mandatory third party access to network and gas facilities is crucial to ensure enhanced participation in the gas industry and to promote competition as well as efficient utilization of gas infrastructure.

Piped-Gas Industry Regulation Programme 4: Dispute resolution including mediation, arbitration and handling of complaints

Strategic Objective 4/1	To ensure fairness and equity in the piped-gas market
Objective Statement	To ensure that investigations into received complaints as well as initiated investigations are concluded within 4 months
Baseline	Currently, investigations into complaints by customers are taking over 12 months to be completed. This may prejudice customers who may suffer harm from the alleged unfair practices.
Justification	Conducting investigations and inquiries on behavior of gas suppliers/ traders and distributors is crucial to ensure growth, fairness and efficient operation of the gas market.

Piped-Gas Industry Regulation Programme 5: Setting of rules, guidelines and codes for regulation

Strategic Objective 5.1:	To provide stakeholder education and information sharing
Objective Statement	To provide education to stakeholders on piped-gas regulatory activities, processes and mandate in order to empower and/or enhance stakeholders' understanding of their rights and compliance requirements. This will also be used to obtain feedback from stakeholders on NERSA's regulatory interventions
Baseline	Not much education and awareness campaigns have been conducted by NERSA since its inception. Few consumer and stakeholder workshops conducted for purposes of clarifying specific projects, namely, tariff guidelines and pricing methodology.
Justification	Consumer education and awareness programmes will empower consumers/customers about their rights and obligations on important aspects of the gas industry such as gas supply agreements and the provisions of the Gas Act and Regulations
Strategic Objective 5.2:	To develop, align to relevant legislation; and implement an HDSA scorecard
Objective Statement	To develop a score card for implementation of the requirement in the Gas Act and the Rules regarding the promotion of historically disadvantaged individuals in the gas industry
Baseline	Currently no scorecard in place
Justification	To promote participation of HDSA in the piped gas industry and ensure they become competitive, NERSA should use the information submitted by licensees on plans for training, procurement, enterprise development, work subcontracted to HDSA, participation at senior management, shareholding and in Board of Directors of licensees for development of the scorecard, and as stipulated in Regulation 5. Section 21(1)(a) also requires licensees to provide NERSA with information on commercial arrangements concerning participation of HDSA.

Piped-Gas Industry Regulation Programme 6: Establishing NERSA as an efficient and effective regulator

Strategic Objective 6.1	To propose regulations and legislative review and to submit approved comments on draft legislative amendments to the policy makers
Objective Statement	To influence policy and legislation applicable to the gas industry through regulatory advocacy and interaction with the Department of Energy
Baseline	The Energy Regulator currently administers the Gas Act and Regulations in its responsibility for the regulation of the gas industry and has experienced some challenges in the implementation of some of the provisions of this legislation.
Justification	As the regulatory body charged with the responsibility to administer the Gas Act and Regulations, the Energy Regulator has significant experience and knowledge of imperfections in this legislation and needs to interact with the Department of Energy and identify the challenges experienced in the implementation of the legislation as well as necessary review/amendment to the Act and the Regulations
Strategic Objective 6.2	To promote understanding of Energy Regulator decisions to stakeholders
Objective Statement	To ensure regulatory certainty and a firm understanding of the Energy Regulator's decisions by stakeholders.
Baseline	No regulatory advocacy has taken place up to the end of 2010/11
Justification	If stakeholders do not understand the decisions of the Energy Regulator and/or the reasons thereof, it may lead to a lack of stakeholder confidence in the Energy Regulator, not only to existing stakeholders but also to possible future investors in the piped-gas industry

PETROLEUM PIPELINES INDUSTRY REGULATION

Petroleum Pipelines Industry Regulation Programme 1: Setting and/or approval of tariffs and prices

Strategic Objective 1.1:	To set and approve tariffs in accordance / in line with published methodologies
Objective Statement	All licensees have tariffs set or approved by NERSA
Baseline	67 out of 211 tariffs set or approved by NERSA
Justification	Natural monopolies require regulated tariffs
Strategic Objective 1.2:	To set and approve tariffs that facilitate affordability and accessibility whilst balancing the economic interests of all stakeholders
Objective Statement	All licensees have tariffs set or approved by NERSA.
Baseline	67 out of 211 tariffs set or approved by NERSA
Justification	To ensure that the needs of licensees and also those of customers are met through efficient and transparent tariffs. This objective will allow easier market entry into the industry thus improving competition that will in turn result in lower prices.

Petroleum Pipelines Industry Regulation Programme 2: Licensing and registration

Strategic Objective 2/1	To decide on licence applications for pipelines, loading and storage facilities within statutory deadlines
Objective Statement	To have the relevant internal activities and processes geared towards assisting the Energy Regulator to consider and make decisions on applications within the statutory timeframes
Baseline	80 % of applications decided on within statutory timeframes
Justification	The 60 days deadline is a statutory requirement
Strategic Objective 2/2	To decrease the number of unlicensed activities
Objective Statement	To have all petroleum infrastructure licensed.
Baseline	A list has been compiled indicating that there are some 10 – 20 licensable facilities around the country that are suspected to be operating without licences from the Energy Regulator.
Justification	The licensing of petroleum pipelines infrastructure is a statutory requirement.

Petroleum Pipelines Industry Regulation Programme 3: Compliance monitoring and enforcement

Strategic Objective 3.1:	To monitor and enforce compliance with construction licence conditions
Objective Statement	To have construction licensees keep to the construction schedule and to the reporting requirements prescribed in their licence conditions.
Baseline	80 % of reports are currently analysed and ready for noting within 60 days
Justification	Licensed infrastructure needs to be available in the economy within the required time.
Strategic Objective 3.2:	To monitor compliance to HDSA ownership levels requirements within the petroleum pipelines industry
Objective Statement	To keep track of licensee compliance with their commitment to the advancement of HDSA matters within the industry
Baseline	None of the licensees has submitted its HDSA compliance status as required by regulation 8.
Justification	The Energy Regulator is mandated with monitoring licensee compliance with HDSA requirements
Strategic Objective 3.3:	To monitor compliance to third party access legislation requirements
Objective Statement	To ensure that all petroleum pipelines infrastructure is efficiently and effectively utilised and shared amongst the owners and prospective users of the infrastructure
Baseline	The ownership and usage of the petroleum pipeline infrastructure is currently dominated by and shared amongst the six oil majors. The availability of any uncommitted capacity and the utilisation levels within the infrastructure are not known to the Energy Regulator. Currently, none of the licensees comply with all of the utilisation reporting, annual monthly volumes reporting or the publication of their allocation mechanism
Justification	The optimum utilisation by all infrastructure stakeholders can be achieved through increased transparency, fair and non-discriminatory access rules. Enforcing licensee adherence to the third party access requirements will assist in achieving such a status.
Strategic Objective 3.4:	To investigate compliance to common carrier rules
Objective Statement	To ensure that common carrier licensees apply rules, terms and conditions that are consistent with the requirements and objects of the Act.
Baseline	No investigation of compliance has been done on any of the common carriers
Justification	The Energy Regulator has to ensure that common carrier licensees adopt transparent and fair rules and access terms and conditions and also apply these without discrimination.

Petroleum Pipelines Industry Regulation Programme 4: Dispute resolution including mediation, arbitration and handling of complaints

Strategic Objective 4.1	To investigate complaints regarding non-compliance with legislation
Objective Statement	To ensure that all complaints received regarding licensed activities are investigated and resolved in time.
Baseline	No formal complaints have been received or investigated
Justification	The Energy Regulator has to ensure an effective and functional petroleum pipelines industry

Petroleum Pipelines Industry Regulation Programme 5: Setting of rules, guidelines and codes for regulation

Strategic Objective 5.1:	To publish licensing guidelines
Objective Statement	To simplify the licensing process by providing easy to understand and follow instructions on how to compile a licence application
Baseline	New entrants are discouraged by a seemingly complicated licensing process
Justification	To encourage new players to enter the market/industry
Strategic Objective 5.2:	To publish tariff guidelines and amend as and when required
Objective Statement	Published up to date tariff methodologies and guidelines
Baseline	<ul style="list-style-type: none"> • methodology dated 31 March 2011 • methodology dated 31 March 2011 • assessment of storage and loading facilities tariff applications dated 31 March 2011
Justification	To promote transparency in the setting and approval of tariffs in the petroleum pipeline industry and the consequential regulatory certainty.

Petroleum Pipelines Industry Regulation Programme 6: Establishing NERSA as an effective and efficient regulator

Strategic Objective 6.1	To investigate the bottlenecks in the petroleum pipelines infrastructure in Durban
Objective Statement	To assist in the promotion of an efficient, effective and sustainable use and operation of the petroleum pipelines infrastructure
Baseline	Currently the Energy Regulator has no SWOT data regarding the petroleum pipelines infrastructure ability to handle current and future petroleum products demands.
Justification	The Energy Regulator has to have knowledge of the abilities and potential of the petroleum pipelines infrastructure
Strategic Objective 6.2	To maintain, update and report on inland supply forecast model - 6 monthly report
Objective Statement	To gather industry information on demand and supply; and to forecast future demand and supply for petroleum products in order to monitor security of inland supply and to facilitate proper planning for future capacity expansion
Baseline	Present NERSA supply and demand model
Justification	Security of supply of petroleum products is vital for economic activity. Supply and demand forecasts inform decisions on capacity expansion.
Strategic Objective 6.3	To review legislation affecting the petroleum industry and recommend changes (where appropriate)
Objective Statement	To address the problems arising from concurrent jurisdiction with other regulators
Baseline	Review of the Petroleum Pipelines Act was done in the previous financial year
Justification	To effectively and efficiently regulate the industry by removing the opportunity for forum shopping
Strategic Objective 6.4	To publish relevant industry data
Objective Statement	To assist licensees and improve the quality of tariff applications
Baseline	Published information on MRP, beta and CPI on the NERSA website
Justification	Reduce regulatory burden on licensees. Tariff information assists markets to operate.

CROSS-CUTTING REGULATORY

Programme 6: Establishing NERSA as an effective and efficient regulator

Strategic Objective 6.1	To benchmark regulatory decisions against international best practice
Objective Statement	To establish the credibility of NERSA as a world class regulator and to ensure that quality of NERSA's decisions and reasons for decision are in line with the international best practice
Baseline	Published regulatory decisions are not benchmarked
Justification	NERSA decisions have to be seen to be independent and informed by best practice
Strategic Objective 6.2	To determine the impact of regulatory decisions
Objective Statement	To ensure that the impact of regulatory decisions are monitored in order to assist the Energy Regulator in determining whether the objectives and envisaged impact of the decisions were reached
Baseline	Annual impact assessment report
Justification	To ensure that decisions taken by the Energy Regulator meet the envisaged objectives and impact and take remedial steps if this is not the case
Strategic Objective 6.3	To develop the research agenda for the organisation on other new sources of energy
Objective Statement	To facilitate the introduction of information on new sources of energy (e.g. Shale gas)
Baseline	No work/research has been done
Justification	With the growing interest on climate issues caused by the traditional sources of energy (e.g. coal) there is going to be a strong emergence of other sources of energy (e.g. the use of shale gas in the generation of electricity). NERSA should be in a position to advise policy makers on the dynamics of the new sources of energy (economics, challenges, opportunities etc)
Strategic Objective 6.4	To harmonise regulatory processes within the organisation and increase regulatory processes efficiencies
Objective Statement	To ensure that regulatory processes are harmonised across the three industries. To reduce information asymmetry. To implement systems that enhances efficiency in regulatory processes.
Baseline	Industry specific methodologies; RRM; MIRT; ICT platform.
Justification	By standardizing, streamlining and utilizing technology NERSA aims to improve its efficiency in regulatory processes and meet statutory timeframes.
Strategic Objective 6.5	To empower stakeholders with relevant energy industry knowledge and information
Objective Statement	To establish sustainable end-user forums to be used as a platform to discuss energy related issues. The end-user forums will also be used to conduct customer education activities and engage stakeholders in regulatory public participation processes.
Baseline	No end-user forums have been established
Justification	It is the requirement of the Electricity Regulation Act for licensees to establish end user forums.
Strategic Objective 6.6	To influence energy sector policy development and amendments to legislation
Objective Statement	To engage in regulatory advocacy to influence policy changes and establish cooperation with other regulators to address issues of concurrent jurisdiction.

Baseline	NERSA regulates certain parts of the regulated industries supply chain. In order for full economic impact of regulation of the energy industry as a whole to occur the identified policy gaps need to be addressed.
Justification	

ORGANISATIONAL

Programme 6: Establishing NERSA as an effective and efficient regulator

<p>Strategic Objective 6.1 Objective Statement</p>	<p>To create an efficient and effective world class organisation To develop, enhance and maintain ICT systems to support business processes To streamline business processes for quick turnaround To ensure that internal audit assurance and consulting activities effectively address the organisation's risks concerns To provide legal advisory services To ensure sound planning and business continuity To improve the effectiveness of the financial processes, systems and procedures To maintain/ support regulatory contact between government and regulated entities through the briefing of policy makers and stakeholders and policy gaps for the sustainability of NERSA. To facilitate the efficient and effective functioning of the energy regulator and its subcommittees through the provision of administrative and legal support 69% successful implementation of the 2010/11 business plan</p>
<p>Baseline Justification</p>	<p>The aim is to:</p> <ul style="list-style-type: none"> improve the organisational planning, implementation of the business plan, monitoring of the implementation of the business plan and organisational performance, evaluation of the implementation of the business plan and organisational performance as well as the reporting thereof; Increase the efficiency and effectiveness of organisational processes to ensure that NERSA's mandate is implemented in a manner as cost-effective, efficient and effective as possible.
<p>Strategic Objective 6.2 Objective Statement</p>	<p>To establish NERSA as an employer of choice To implement HR policies, procedures and programmes systems and processes to attract develop and retain requisite skills within NERSA 87% filled structure, 50% of employees sent on training and development programmes, 95% staff retention rate Attracting, retaining and leveraging the skills and knowledge of employees</p>
<p>Baseline Justification</p>	<p>The aim is to:</p> <ul style="list-style-type: none"> improve the organisational planning, implementation of the business plan, monitoring of the implementation of the business plan and organisational performance, evaluation of the implementation of the business plan and organisational performance as well as the reporting thereof; Increase the efficiency and effectiveness of organisational processes to ensure that NERSA's mandate is implemented in a manner as cost-effective, efficient and effective as possible.
<p>Strategic Objective 6.3 Objective Statement</p>	<p>To position and promote the good image of NERSA To position and promote NERSA as a world-class leader in energy regulation so that the general public and stakeholders are aware of and appreciate and support the role and actions of the Energy Regulator. This will be done by compiling and publishing NERSA publications aimed at providing information to a wide range of stakeholders and by creating awareness amongst customers about their rights and responsibilities so as to influence better service delivery and to encourage licensees to meet their obligations Stakeholder satisfaction index is 78% (Survey report of 28 June 2010)</p>
<p>Baseline</p>	<p>The aim is to:</p> <ul style="list-style-type: none"> improve the organisational planning, implementation of the business plan, monitoring of the implementation of the business plan and organisational performance, evaluation of the implementation of the business plan and organisational performance as well as the reporting thereof; Increase the efficiency and effectiveness of organisational processes to ensure that NERSA's mandate is implemented in a manner as cost-effective, efficient and effective as possible.

Justification	<p>The credibility and good image of NERSA depends on the attitudes and perceptions of its stakeholders and on the degree to which they are informed about NERSA's regulatory functions. The integrated communication strategy is aimed at creating maximum awareness of NERSA's mandate to regulate the electricity, piped-gas and petroleum pipelines industries. The aim is to inform and to educate the public and stakeholders. This requires the use of different approaches and communication mechanisms which include publications tailored for specific target groups. The publications include the annual report, electricity supply statistics, newsletter and other publications such as brochures, pamphlets, flyers, posters and bulletins.</p> <p>It is also important for NERSA to conduct customer educational campaigns to ensure that customers in the energy sector are well informed of their roles and responsibilities on issues pertaining to electricity, piped-gas and petroleum pipelines</p>
Strategic Objective 6.4	To improve the effectiveness of the financial processes, systems and procedures
Objective Statement	<p>To improve the effectiveness of the financial processes, systems and procedures to enable NERSA to meet its mandate and set targets including meeting the set BEE targets in support of government initiatives of the alleviation of poverty and wealth redistribution. To ensure effective delivery of services related to security asset care hospitality and facilities management</p>
Baseline	2010 management report by the office of the Auditor General
Justification	<p>In order to receive an unqualified annual audit report it is critical that accounting and financial services budgetary control as well as supply chain management logistics services and control are in line with the PFMA Act 1 of 1999 and Treasury regulations. Ensuring a safe and conducive environment by improving the general working environment.</p>

7.2 Resource considerations

To give effect to section 13(2) and (3) of National Energy Regulator Act, 2004 (Act No.40 of 2004), the Energy Regulator has approved the following ring fencing principles:

- i. Costs that can be directly attributable to an industry-specific regulatory function will be charged directly to that function.
- ii. Costs that are not directly attributable to an industry-specific regulatory function, but are incurred as common costs in order to support the three industry-specific regulatory functions, will be allocated between the three industry-specific regulatory functions using the ratio proportionate to the approved staff complement attributable to the industry-specific function:
 - The current ratio is 58% for the electricity industry regulation; 21% for the petroleum pipeline industry regulation; and 21% for the piped-gas industry regulation.
- iii. This ring fencing methodology will be reviewed in three years. The Energy Regulator however has the discretion to review the ratios should there be indications of actual ratios varying by more than 5%.

7.3 Risk management

A comprehensive industry specific and organisational risk register is developed annually and is attached to the Annual Performance Plan.

In line with the requirements of the PFMA and the Treasury Regulations, the Internal Audit Unit provides the Audit and Risk Subcommittee and management with assurance that the internal controls are adequate and effective. This is achieved by means of an independent, objective appraisal and evaluation of the risk management processes, internal controls and governance processes, as well as by identifying corrective actions and suggested enhancements to the controls and processes.

The Internal Audit Unit reports administratively to the Chief Executive Officer and functionally to the Audit and Risk Subcommittee of the Energy Regulator, and has full, unrestricted access to all organisational activities, records, property and personnel.

The NERSA risk management process is formally sponsored at Energy Regulator and Secretariat level, as evidenced by the Audit and Risk Subcommittee and the Operational Risk Committee. The Risk Monitoring Manager proactively maintains the strategic risk register. This is done by ensuring that each risk identified has a mitigating control and the risk owners are responsible for implementing these controls.

The Audit and Risk Subcommittee is responsible for ensuring that an integrated fraud prevention plan is implemented in order to minimise the risk and opportunity for crime and irregularities, in particular, fraud. A fraud prevention hotline is available for reporting all suspicious irregular activities.

In terms of the Public Audit Act, 2004 (Act No. 25 of 2004), the Auditor-General is responsible for independently auditing and reporting on the financial statements in conformity with the South African Generally Recognised Accounting Principles and Generally Accepted Accounting Practise as well as auditing the performance against objectives.