

L.N. 449 of 2014**MALTA RESOURCES AUTHORITY ACT
(CAP. 423)****Electricity Supply (Amendment No. 4) Regulations, 2014**

IN exercise of the powers conferred by article 28(1) of the Malta Resources Authority Act, the Minister for Energy and Health, after consultation with the Malta Resources Authority, and Enemalta plc, with the approval of the Malta Resources Authority, has made the following regulations:-

Citation. **1.** The title of these regulations is the Electricity Supply (Amendment No. 4) Regulations, 2014, and these regulations shall be read and construed as one with the Electricity Supply Regulations, hereinafter referred to as "the principal regulations".

S.L. 423.01

Amends regulation 2 of the principal regulations. **2.** Immediately after the definition "application" in sub-regulation (1) of regulation 2 of the principal regulations, there shall be added the following new definition:

Cap. 423. " "Authority" means the Malta Resources Authority established by the Malta Resources Authority Act;".

Amends regulation 36 of the principal regulations. **3.** Regulation 36 of the principal regulations shall be amended as follows:

(a) sub-regulations (1) to (8) thereof, both inclusive, shall be renumbered as sub-regulations (6) to (13) respectively; and

(b) immediately before sub-regulation (6) thereof, as renumbered, there shall be added the following sub-regulations:

"(1) A distribution system operator may enter into special agreements in order to charge prices other than those established by these regulations, provided that the said prices are lower than those established by tariff.

(2) The Authority shall approve any proposed tariffs submitted by a distribution system operator that provide sufficient revenue to the distribution system operator in any financial year in respect of the generation, distribution, and sale of electricity:

(a) to cover its full cost which shall include all operational, administrative and financial costs incurred in the generation, distribution and retail of electricity units including but not limited to costs relating to operational asset impairment, non-recoverable tax and duties (excluding corporate tax on profits), and accumulated losses;

(b) to meet periodic repayments on long term indebtedness to the extent that any such repayment exceeds the provisions for depreciation; and

(c) to provide a reasonable return on the equity value,

and any such tariffs and agreements shall not give undue preference as between consumers similarly situated or make undue discrimination as between persons similarly situated having regard to the place and time of supply, the quantity of electrical energy supplied, the consumer load and power factor, the purpose for which the supply is taken and any other circumstance which could justify a preferential or discriminatory treatment.

(3) (a) A distribution system operator shall communicate its proposed tariffs to the Authority together with all documentation in support of its proposals, and together with any other information and documentation reasonably requested by the Authority within a period of three (3) months from the submission of the proposal. Any documentation submitted to the Authority by the distribution system operator in terms of this regulation shall be considered as confidential and economically sensitive and shall be handled accordingly.

(b) The Authority shall communicate its decision to approve or refuse the tariffs proposed by the distribution system operator within six (6) months from the submission of the proposal, provided that the Authority may only refuse to grant its approval to the said tariffs after having given the distribution system operator an opportunity to make representations to the Authority, and shall provide reasons to the distribution system operator explaining its decision.

(4) The Authority may only refuse to grant its

approval to any tariffs proposed by the distribution system operator when such proposed tariffs do not comply with the principles established by sub-regulation (2).

(5) A distribution system operator shall have a right to appeal on any grounds of fact and law to the Administrative Review Tribunal from any decision taken by the Authority in terms of this regulation. In reaching a decision the said Administrative Review Tribunal shall have regard to:

(a) the principles established in terms of this regulation;

(b) the proposed tariff structures proposed by the distribution system operator; and

(c) any relevant correspondence between the Authority and the distribution system operator, and any legitimate expectation created by law, regulation, or by the Authority in favour of the distribution system operator."

