

NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 2485 [NW2854E]
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2485. Mr B M Bhanga (DA) to ask the Minister of Finance:

- (1) Whether any (a) metropolitan, (b) local or (c) district municipality has budgeted or applied for tariff increases for the 2015-16 Medium-Term Revenue and Expenditure Framework in excess of the guidelines stipulated in the Municipal Finance Management Act (MFMA) Circular No 74 on 12 December 2014; if so, what (i) are the names of these municipalities and (ii) was the tariff increase budgeted or applied for;
- (2) whether, for each of the specified municipalities, exemption or permission was granted by the National Treasury for the increase as budgeted or applied for; if so, on what grounds was such exemption or permission granted;
- (3) whether any (a) metropolitan, (b) local or (c) district municipality approved a budget increasing tariffs for electricity, water and other service charges beyond the electricity tariff increases approved by the National Energy Regulator of South Africa or a cost reflective tariff in line with the 6% increase stipulated in the MFMA Circular No 74 without exemption or permission; if so,
- (4) (a) whether such an increase is binding on the resident of that municipality and (b) what action will be taken to address the situation in each case?

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REPLY:

- (1)(a) In terms of Section 24(2) of the Municipal Finance Management Act (MFMA) (Act No. 56 of 2003), an annual budget of a municipality must be approved before the start of the budget year. Section 20(1) of the Municipal Budget and Reporting Regulations further requires that the approved annual budget must be submitted to the National Treasury within ten working days after the municipal council has approved the budget. In light of the fact that the timeframe allowed for the submission of the approved budgets has not expired as yet, it is premature to determine which municipalities have approved tariff increases for the 2015/16 MTREF in excess of the 6 per cent guideline provided in MFMA Circular No. 74. Furthermore, despite MFMA Circular No. 74 advising municipalities to adopt cost reflective tariffs while taking the inflation forecasts into consideration to keep increases affordable, it must be emphasized that MFMA Circulars provide guidelines to municipalities and, in terms of Section 168(3)(a) of the MFMA are not binding on a municipality unless adopted by its Council.
- (1)(b) See answer 1(a) above.

(1)(c) See answer 1(a) above.

(1)(i) The National Treasury will publish the adopted tariff increases for all municipalities in November 2015, after the information that was submitted by municipalities have been verified in terms of accuracy.

(1)(ii) See answer 1(i) above.

(2) A municipality has the power to approve annual tariff increases for services. Section 75A of the Local Government Municipal System Act (32 of 2000) stipulates that:

(1) A municipality may –

(a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and

(2) the fees, charges or tariffs referred to in subsection (1) are levied by a municipality by resolution passed by the municipal council with a supporting vote of a majority of its members.

However, it must be noted that electricity tariff increases are regulated in terms of Section 43 of the MFMA and the Electricity Regulation Act (ERA)(Act No. 4 of 2006). ERA empowers the National Electricity Regulator of South Africa (NERSA) to approve guideline increases for electricity tariffs to be charged by municipalities on an annual basis. It is important to note that this guideline is not an automatic increase in tariffs and that municipalities that have been granted licenses to sell electricity are still required to apply to NERSA for the approval of their tariffs in accordance with the provisions of Section 15(1) of ERA before implementation.

(3) See answer (1) above on approved increases for all services, except for electricity. With regard to electricity, municipalities may apply for an increase in tariffs that is above the guideline approved by NERSA in terms of Section 16(3) of ERA. Municipalities that apply for tariffs that are outside the approved benchmarks must be able to substantiate such increases. NERSA publishes the approved tariff increases for each province on their website (www.nersa.co.za) annually, but at the time of preparing this response the approved tariff increases for 2015/16 has not been published as yet.

(4)(a) In terms of Section 22 and 23 of MFMA, the municipality must invite and consider the views of the local community, the National Treasury, the relevant provincial treasury and any national or provincial organ of state or municipality on the tabled budget. Furthermore, the Mayor must respond to the submissions and, if necessary, the municipality must revise the tabled budget before adoption by Council. If the municipality has not complied with the provisions of the MFMA pertaining to the tabling and approval of the budget and compulsory consultation processes, the provincial executive may intervene in terms of Section 139 of the Constitution. The community also reserves the right to take legal action against the municipality if they

object against the approved budget and tariffs as a result of the legislated consultation processes not being followed.

Furthermore, in terms of Section 19 of ERA, NERSA may impose a penalty of 10 per cent of the annual electricity turnover of the municipality or R2 million (whichever is the higher amount) per day commencing on the day of receipt of the notice or apply to the High Court to suspend or revoke a license if a municipality contravenes a license condition (e.g. implementing tariffs increases that is not in line with NERSA's approval).

(4)(b) See answer in 4(a).