SAPOA UTILITY RECOVERY GUIDELINES
Prepared by the SAPOA Sustainability Committee
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INTRODUCTION

The commercial property owner provides water, electricity, sewerage and gas to the tenants that rent space from the owner.

To do this the owner must apply for the incoming supply from the licensed authority or other suppliers, in turn supply the tenant and recover its costs in this regard.

Municipalities are no longer providing supply directly but rather limit their responsibility to one bulk supply per property. As such the onus is now on the property owner to supply utilities to tenants.

The owner must:

1. Reticulate the property;
2. Maintain the installation;
3. Install appropriate metering where feasible;
4. Read the meters and bill the tenant accordingly or appoint a third party to do so;
5. Attend to any queries or complaints raised by the tenant;
6. Collect the money from the tenant;
7. Absorb the transformer losses;
8. Manage the council expense and ensure correct metering;
9. Reconcile the expense and recovery;
10. Manage various suppliers involved in the supply.

In supplying utilities in the manner described, the owner acts as a microcosm of the licensed authority. The cost of this responsibility is now borne by the property owner and the property owner must be in a position to recover these costs.

The resale of electricity remains largely unregulated. The guidelines draw on the legislated framework and propose an operational approach by the property owner and its service providers in the spirit of the legislated framework.
PURPOSE

The purpose of these guidelines is to set out a framework for the recovery of utility expenses by property owners from tenants. It serves to

- Provide clarity on how SAPOA members approach and interpret the applicable legislative framework;
- Provide transparency to tenants, local government, NERSA and other bodies in how SAPOA members approach the utility recovery; and
- Guide members in how to approach the utility recovery in their policy formulation.

The guidelines do not intend to be prescriptive but to offer guidance to owners and to their tenants regarding best practice for utility recoveries within the legislated framework. The guidelines are for the use of all SAPOA members including landlords, utility management companies and managing agents.

GUIDING PRINCIPLES

The recommended guiding principles are:

1. SAPOA members are to charge tenants for utilities consumed for the sole purpose of recovering costs and not to turn a profit on utilities;
2. SAPOA promotes engagement with the end user and the deployment of metering systems that will allow tenants consumption visibility.
3. Every effort should be made to provide transparency in the charges, both in the lease and in billing and according to regulations;
4. SAPOA members respect the legislative framework and will adhere to all applicable legislation including but not limited to:
   • Bylaws of each municipality;
   • Electricity act;
   • Consumer protection act;
   • National standards.

Where there are lacunas or inconsistency in applicable legislation, SAPOA will lobby the relevant bodies and will apply what is most reasonable until legislation is amended and discrepancies are rectified.
5. SAPOA also promotes the use of the Energy and Water Performance benchmarking (EWP) tool for office buildings to highlight buildings requiring consumption reduction interventions.
6. SAPOA also promotes the reduction of operation consumption cost for each tenant.

TARIFF APPLICATION

In determining which tariff is to be applied, the following guidelines apply:

• The property owner will apply the tariff as if the licensed authority supplied the tenant directly, in other words, apply the tariff that council or Eskom would have applied to the tenant if they measured and billed them directly;

• The tariff structure is to be determined by the supply size and consumption as described in the relevant Municipal or Eskom Tariff Documents;

• If a tenant wishes to be charged a different rate or tariff, the tenant is to carry the cost of amending the installation to allow for this. As an example, if a tenant wishes to be charged a lower circuit breaker charge, the tenant must carry the cost of changing the size of the breaker;

• There should be transparency at the time of concluding the lease about what the supply size at the rented space is;

For common areas, if all common areas are metered the tariff as per the supply size must be applied. If all common areas are not metered, the common area consumption will be calculated by subtracting the sub-metered consumption from the bulk consumption. The common area consumption will then be pro-rated based on the rented area as a percentage of the gross lettable area at either the business rate or by the effective energy charge (cost of electricity).

TYPES OF CHARGES

The following types of charges may find application and are driven by the lease:

- Metered charges where the charges are metered by an individual sub-meter;
- Fixed rates per m² where a fixed rate is negotiated per m²;
- Fixed charges where a fixed amount is charged;
- Pro-rata charges where there is a shared metering point per floor or per area and the consumption is pro-rated based on the rented area;
- Calculated charges where the sub-metered consumption is subtracted from the bulk consumption.

In commercial properties there are common areas that are used by tenants and their visitors. Utility consumption in common areas are to be recovered from tenants as follows:

- When metered, pro rata to area rented;
- When not metered, via calculated charges where the sub-metered consumption is subtracted from the bulk consumption;
- Any vacant spaces to be carried by landlord unless consumption can be attributed solely to the tenants in occupation;
- For HVAC, pro rata based on the area served by the HVAC plant or unit;
  - Where BTU metering (measuring in kWh) is deployed and electricity/water cost are calculated on measured energy consumption, the COP of the HVAC plant must be factored into the calculation, either by measured value or by Mechanical Engineer advise.
- It is recommended that water consumption is metered where viable, alternatively calculated charges will apply;
- Chilled water consumption may be recovered if it is adequately metered.
- It is recommended that ideally, where possible, generator (self-generated) consumption at a tenant level should be specifically metered, with a transparent cost recovery model agreed with tenants.

**METERING**

To allow for transparent and accurate charges, it is recommended that every rentable space must be fitted with a sub-meter. There are however circumstances where it is not technically feasible to provide sub-metering to every rentable space. In these circumstances an alternative charging mechanism such as pro-rata charges or fixed rates per m² must be applied.
Sub-meters, whether on a post-paid or prepaid basis, should ideally have the following characteristics:

- For electricity meters, class 1 accuracy and class 0.5 accuracy on installations of 10 MV and higher. The class of current transformers must match the class of the meter;
- For water meters, class C
- IEC approval and where required by the bylaw, SABS approval

Meters should be read once per month.

Services for the checking of the accuracy of the meter must be provided for which a reasonable fee may be charged. If the meter is found to be inaccurate, the fee must be refunded to the tenant.

SAPOA promotes the use of Smart Metering Technology that meets (at least) the following criteria:

1) International accreditation – IEC standards (accepted by SABS)
2) Open Protocol Technology
3) kVA Demand and Time-of-Use capable.

In addition, SAPOA promotes free flow of meter key files/codes between licensed companies (the key file belongs to the meter i.e. landlord).

**CONSUMPTION INFORMATION**

While property owners are not licensees as described in NRS047:1 – 2002, it is recommended that property owners apply the principles as set out therein.

Whether on a pre-paid or post-paid basis, tenants should be supplied with the following information as detailed in NRS047:1 - 2002:

- The previous meter reading and date and current meter reading and date;
- Consumption;
- Applicable tariff.

The lease agreement should stipulate the following:

- How consumption will be estimated if no meter readings are available;
- Where and how to pay or purchase electricity;
- Penalties for late or non-payment and tampering.
Depending on the property, certain common area calculations may be of such a level of complexity and vary to such a degree from month to month that it will not always be possible to provide the information to each tenant on a monthly basis.

When a tenant queries an account, the tenant should receive a response within 5 working days. The method for lodging queries or complaints must be communicated to the tenant.

**TERMINATION OF SUPPLY**

In terms of the common law, a landlord may not terminate the supply of electricity as this is tantamount to spoliation. Where a tenant is contracted directly to a municipality for its supply, a landlord may approach the council to request termination where the tenant’s council account is in arrears.

Where the rented space is fitted with a prepaid meter, it is lawful for the supply to terminate if the tenant has not purchased electricity or water.

Where a tenant has tampered with or bridged a prepaid meter, the supply may be terminated after delivery of a written warning to the tenant.

**DEPOSIT REFUNDS**

After a tenant has vacated premises, the owner is entitled to withhold the tenant’s deposit until such time as the final bill for utilities has been rendered and settled.

**ANNUAL SAPOA TARIFF ENGAGEMENT**

SAPOA to serve as a single voice to Eskom and Municipalities. The SAPOA Members to identify the priority order and approach strategy.

SAPOA to engage with Eskom during September/October annually for tariff input.

SAPOA to engage with Municipalities during February/March/April annually for tariff input.
REFERENCES

NRS047:1 – 2002: Electricity supply quality of service

Council bylaws

Electricity pricing policy as published on 19 December 2008

Electricity regulation act of 2006

Consumer protection act