Tariff pricing policy

Ensuring that communities both receive and pay for basic services like water, electricity, refuse removal and sewerage is a central challenge facing our society. A crucial obstacle to this objective has been the absence of a uniform service tariffs policy.

Richard Kruger, the government representative in Nedlac's Development Chamber explains: "At the moment there are hundreds of different tariff structures in operation. And there were no guidelines for municipalities regarding a service-tariff pricing policy."

In early 1996 government produced a *Possible Tariff Policy* document. The Development Chamber was given the task of developing broad principles to be incorporated into a service tariff policy. This proved to be a difficult, but ultimately successful, process.

A memorandum of understanding was finally concluded between the Nedlac constituencies in March this year.

The agreement includes the following key principles:

- self-financing at a local and regional level;
- the economic conditions suffered by the poor must also be considered in determining prices for service provision;
- fairness in setting service tariffs;
- payment in proportion to the amount consumed;
- transparency in the allocation of subsidies;
- consistent tariff enforcement.

A fundamental question that negotiators wrestled with was how to achieve sustainable economic development while providing for the basic social needs of all.

Financing at local level

The agreement states that, as far as possible, services should be financed at a local and regional level. But it was also agreed that the minimum level of service should be defined locally. Aubrey Lekwane, the Development Chamber co-ordinator, explains: "Conditions differ from one area to another. What's right for one place may not be for another. For example, pit latrines may be an appropriate basic service for one community, but in a damp area the conditions may make them a health hazard."

The agreement also recognises that not all areas have the capacity to administer or carry all the costs of local services. Lekwane comments: "Services should be self-financing in principal, but the reality is that there are communities who can't pay for the services they consume." In such cases subsidies and support would have to be provided by government. Kruger comments, "Government admits there is a need for subsidies for the poor. Government won't run away from its commitments."

Services for the poor

The agreement recognises that historical and economic conditions have created conditions of poverty within many communities. These conditions must also be taken into account when prices for services are set. It was agreed that the poor should not be excluded from the provision of services, nor should they automatically suffer from significantly reduced levels of service. Life line tariffs should be established to ensure that all people have access to a basic service.

Use and pay

The agreement states that scarce resources such as water need to be exploited with care and properly paid for. It endorses the principle that consumers should pay in proportion to the amount of services they consume.

To achieve this, effective metering should be put in place. Failure to pay for correctly and efficiently billed services (where adequate administrative provision is made to make payment possible) should lead to consumers' services being restricted or suspended.

But Howard cautions that, "the solution for non-payment can't simply be based on blaming the poor for unwillingness to pay. The government must address their real needs." Kruger feels that "the first step is to have a tariff policy in place, then the next thing is to put in place proper credit control, to deal with non-payment."

Economic development

The need for services to contribute to sustainable economic development emerges clearly in the agreement. It was accepted that all households, with the exception of those trapped in poverty, should pay the full operating and maintenance costs of the services they receive. Unsustainable subsidies will end

up using the funds needed to maintain infrastructure and in the long term lead to deterioration of services.

Businesses which are large service users have in the past enjoyed tariff concessions. However, in the future they should only receive such support if it can be shown to contribute to processes of economic development in the area.

It was also agreed that high levels of tariffs on mining, industry and commerce could have serious negative effects on development. Lekwane explains, "High tariffs can force companies to relocate resulting in a loss of jobs and revenue in the area."

Fairness and transparency

The principle of fairness was established to ensure that individuals and groups are not discriminated against. For example, in the past the impact of the Group Areas Act and other apartheid policies resulted in even neighbouring communities receiving unequal services in terms of both quality and cost. Lekwane illustrates the point: "The coloured community in Ennerdale argues that Soweto just across the way gets lower tariffs. The principal of fairness allows communities to challenge such discrimination."

But the document also recognises the need for cross-subsidisation. Cross-subsidies use the income generated from service payments in more prosperous areas to support the delivery of services in poorer communities. This issue has been the source of intense conflict and suspicion. The key agreement which emerged was the need for transparency and clear criteria in relation to such practices.

"Historically there have always been

cross-subsidies," says Lamprecht, "but no-one knew where the money went to." Business representatives in particular argued that it was vitally important that the uses for which cross-subsidies are intended should be clearly spelled out.

Businesses and residents should know, for example, whether their service payments are being drawn on to buy cars for officials, or to provide services to the poor.

The agreement also states that cross-subsidisation should normally be used to cover the capital costs involved in expanding basic services, rather than on operation and maintenance costs.

Lamprecht comments that, "The Service Tariffs Agreement does not answer all dilemmas but gives guidelines to determine pricing policy."

New codes agreed

Picketing

Director of Ditsela, and former official of the CWIU, Chris Bonner, remembers how pickets were carried out in the past: "Some unions had agreements with employers on procedures for picketing. But generally they were done on a rougher basis. Often things would get nasty.

There was always the threat of security laws, with pickets being disturbed by the police and picketers sometimes being arrested."

The labour convenor of Nedlac's Labour Market Chamber, Muzi Buthelezi, has this to say about picketing in the past. "The way pickets were conducted differed from union to union, company to company. Many unions resisted discussing a code because they felt that it would restrict unions in terms of strike action. But whether there was a code or not, there was always the problem of police interference."

Things should be different in the future. There will be a place for properly organized picketing. In February the social partners at Nedlac reached agreement on a code of good practice on picketing.

The purpose of the code is to

provide guidelines to assist employers, employees, the CCMA, labour courts and the SAPS in interpreting and applying the LRA.

Co-ordinator of Nedlac's Labour Market Chamber, Liesel Köstlich, explains: "The code gives additional guidelines on how to interpret the LRA. It does not apply to all pickets and demonstrations. It only applies to pickets in support of protected strikes or in opposition to any lock-outs in terms of section 69 of the LRA."

The code tries to ensure proper communication between employers and employees during and before a picket.

Key aspects of the code include the following:

❑ A registered trade union must authorize a picket.

❑ Picketing rules – the parties should try to negotiate picketing rules before a picket starts. Factors to consider when negotiating these rules include number of picketers, location, time and duration of the picket, conduct during the picket, and the code itself. Where no picketing rules have been agreed the CCMA may stipulate rules.

❑ Pickets on the employer's premises require the permission of the employer, which may not be unreasonably withheld.

❑ Conduct during the picket – trade unions must appoint a convenor and marshals to oversee and monitor a picket. The employer party must also appoint a representative. Picketers may carry placards, chant slogans and sing and dance. Picketers may not physically prevent entry of persons to and from the workplace.

❑ Role of the police – the police have a general duty to uphold the law and may take reasonable measures to keep the peace.

The police

A key area for debate during negotiations of the code was the role of the police. The code makes it clear that, "it is not the function of the police to take any view of the merits, in particular of the disputes, giving rise to a strike or a lock-out. The police have no responsibility for enforcing the Labour Relations Act."

The Picketing Code provides a way forward to prevent past problems on the picket line recurring. Properly implemented, it should lead to a better understanding of the roles and responsibilities of parties before and during a picket.

New retrenchment code

During the LRA negotiations in 1995, it was agreed that Nedlac should issue a code of good practice on dismissals based on operational requirements, commonly referred to as retrenchment, as a schedule to the LRA.

If there is no alternative to retrenchment there needs to be a fair procedure to deal with what is a very traumatic experience. A Code on Retrenchment was finalised in Nedlac in February this year.

The government convenor of Nedlac's Labour Market Chamber, Les Kettledas,

believes this code is very important: "The code amplifies what's in the law. It gives guidelines on how best to conduct the process of retrenchments. Previously, different agreements were reached regarding retrenchments at enterprise and collective bargaining levels. This code gives clarity with regard to a number of things. For example, it gives a definition of operational requirements; clearly elaborates how consultation should be conducted and clarifies selection criteria."

Reasons for dismissals based on operational requirements are defined in the Act. These include the economic, technological or structural needs of the employer. Liesel Köstlich explains: "What the code does is it tries to clarify this definition by explaining these terms more fully."

The code says the following: "As a general rule, *economic reasons* are those that relate to the financial management of the enterprise. *Technological reasons* refer to the introduction of new technology which affects work relationships either by making existing jobs redundant or by requiring employees to adapt to the new technology. *Structural reasons* relate to the redundancy of posts consequent to a restructuring of the employer's enterprise."

Key aspects of the code include the following employer's obligations:

❑ *Employers must explore alternatives to retrenchments.*

❑ Employees to be dismissed must be treated fairly.

❑ There must be consultation with employees in an attempt to reach consensus.

❑ Dismissed employees must be given preference for rehiring.

- There must be proper consultation around matters, including measures to avoid dismissals, the time of dismissals, ways to minimize the negative effect of dismissals, methods of selecting employees to be dismissed and the severance pay for dismissed employees.
- Fair selection criteria include length of service, skills, qualifications and the LIFO (last in first out) principle.

Severance pay provided for in the Act is a statutory minimum and parties can negotiate improvements.

If an employee 'unreasonably' refuses alternative employment his/her right to severance pay is forfeited.

Muzi Buthelezi is upbeat about the Retrenchment Code:"What is good is that it emphasizes consultation between trade unions and employers. It is also saying to employees that they must consider rehiring workers. What often happens is that workers are fired and contract workers are brought in."

Both the Picketing and Retrenchment Codes will be published in the Government Gazette. Copies are also available from Nedlac.

The business convenor of Nedlac's Labour Market Chamber, Bokkie Botha, summarizes the value of these codes. "Many employers and employees have good relations. But the value of these codes is that you spread best practice across a wider spectrum."

The Nedlac work programme

Priority issues which have been targeted for completion in the first half of 1998 are:
- The jobs summit
- Competition policy
- The Social plan
- The Employment Equity Bill
- The Skills Development Bill
- The Water Resources Bill
- Housing

Labour Market Chamber

- *The Skills Development Bill* deals with a skills development strategy for South Africa. The focus of negotiations since October 1997 has been on the financing and governance of training. An agreement on the Bill should be reached by the end of March.
- *The Employment Equity Bill* deals with unfair discrimination and affirmative action in the workplace.

Negotiations began in March 1998.
- *Demarcation guidelines* are criteria for the demarcation of sectors. Demarcation will determine which companies and groups of companies are grouped together in an industry or sector for collective bargaining purposes.
- *Sexual harassment:* development of a code of good practice regarding the handling of sexual harassment cases.
- *LRA codes of good practice:* codes of good practice concerning 'picketing' and 'retrenchments' have been agreed on.(See pages 48-50 for more details.)
- *Basic Conditions of Employment Act codes of good practice:* two codes are being dealt with, 'Arrangement of working time' and 'Protection of pregnant and lactating employees.'

Development Chamber

☐ *Housing:* looking at boosting delivery of low income housing.

☐ *National Water Bill:* provides legislation on the management of our scarce water resources. A preliminary report will be submitted to government and parliament's portfolio committee by mid-March.

☐ *Memorandum of Understanding on Service Tariffs:* Nedlac has finalised a memorandum of understanding which develops broad principles to determine tariff-pricing policy for basic municipal services like refuse removal and sewerage. The memorandum has been finalised (See pages 46-48 for more details.)

☐ *Masakhane:* the Chamber is currently playing a role in building the Masakhane Campaign.

Trade and Industry Chamber

☐ *Competition Policy:* Government tabled a policy document on competition policy last year. It attempts to combat unfair business behaviour, for example, restrictive practices or abuse as a result of a dominant position, which is not in the public interest. Negotiations on the framework of principles which will shape legislation commenced in March 1998.

☐ *The Social Plan:* deals with a basket of different measures to assist workers who have been retrenched. It is looking at measures, for example training, counselling and small business development programmes, which will cushion the impact of mass retrenchments on workers and their communities.

☐ *The Workplace Challenge:* is addressing issues related to productivity in the workplace. The 2nd phase was launched in March. Two

sectors, footwear in KwaZulu-Natal, and Plastics in Gauteng, have already been selected in order to closely examine a number of issues related to productivity. These include democratisation of the work place, retraining and the sharing of gains.

☐ *Trade and Negotiations with the EU and SADC:* Nedlac continues to provide a forum for South African trade negotiators to consult with business and labour. The Chamber is also making inputs on, for example, South Africa's tariff offer to the EU and SADC and non-tariff barriers to trade.

☐ *Industrial Development Zones (IDZs):* It has been agreed that Nedlac will host a workshop to look at issues related to IDZs. The workshop will address, among other things, labour's fears that labour standards will be compromised in IDZs.

Public Finance and Monetary Policy Chamber

A policy session with the Minister of Finance was held in March. The chamber was briefed on the budget and the Medium Term Expenditure Framework (MTEF). The session also addressed the issue of strengthening the Chamber's capacity to facilitate effective dialogue on fiscal and monetary policy matters.

Other issues

The Jobs Summit: all the parties in Nedlac agree that employment creation is a top priority. A jobs summit to explore strategies for employment creation is to be convened by the President. Intensive planning for the Summit, involving negotiations, information-sharing and setting priorities is underway in Nedlac.