

Islamic Republic of Mauritania



Regulatory Authority

COMMUNICATION ON THE PUBLIC WATER SERVICES DELEGATION (DSP) IN MAURITANIA

Submitted By:

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I. Regulatory framework :

Law 99-019 on Telecommunications created an Authority responsible for regulating the Telecommunications Sector, which was repealed in 2001 by Law 2001-18 of 25 January 2001 creating the Multisectoral Regulatory Authority responsible, in addition to regulating the Telecommunications Sector, for the Water, Electricity and Postal Sectors.

Under article 9 of law 2001-18, the Regulatory Authority (AER) is consulted by the Ministers responsible for the regulated sectors, on any draft law or regulation relating to the said sectors. It is involved, at the request of the Minister concerned, in the preparation of any decision relating to its sector or likely to have an impact on it, and in particular in the design of sectoral policy. In each of the sectors whose regulation is entrusted to it, it is responsible for taking the necessary measures to :

1. Ensure compliance with the provisions of the legislative and regulatory texts governing the sectors within its remit under objective, transparent and non-discriminatory conditions;
2. Ensure continuity of service and protect the public interest;
3. To protect the interests of users and operators by taking all appropriate measures to ensure effective, healthy and fair competition in the sector concerned, within the framework of the legislative and regulatory provisions in force;
4. Promote the effective development of the sector in accordance with the Government's objectives, in particular by ensuring economic and financial equilibrium and preserving the economic conditions necessary for its viability;
5. Implement the mechanisms for consulting users and operators provided for by the laws and regulations;
6. Granting the authorisations provided for in the sectors concerned and implementing the procedures for awarding authorisations, licences and concessions under conditions of transparency and full competition;
7. Monitoring compliance by stakeholders with their obligations under licences, authorisations and concessions.
8. Monitor compliance with competition conditions in all regulated sectors.

The water sector in Mauritania is governed by a set of regulations. The texts relating to the management of the public water service are :

A. Laws

- **Law n° 2001-18**, of 25 January 2001, on the multi-sector Regulatory Authority;
- **Law 2005-030** of 2 February 2005 on the Water Code;
- **Law No. 2017-006** of¹ February 2017, amended by Law No. 2021-006 of 19 February 2021, on Public Private Partnerships (PPP).

B. Decrees

- **Decree no. 2007-107** of 17 April 2007 on the conditions and threshold for delegating public water services;
- **Decree no. 2008-070** of 30 March 2008 on the duration and conditions of the delegation of public drinking water supply to Société Nationale d'Eau (SNDE);
- **Decree no. 2010-178** of 07/09/2010, creating a public body called the Office National des Services d'Eau en milieu rural (ONSER) and setting out its organisational and operational rules.

Law 2005-030 of 02 February 2005 on the Water Code sets out the rules for the organisation and operation of the public water management service, in particular through Public Service Delegation (PSD) of water. In this respect, the Code sets out the procedures for the PSD, namely: the scope, terms and conditions (granting, transfer and revocation of licences), penalties and terms and conditions for setting tariffs.

II. Project ownership:

According to the Water Code:

- The Ministry responsible for water is the contracting authority for operations relating to the development of water resources and the implementation of national public investment programmes in the water sector;
- The municipalities exercise public project management with regard to the developments, installations and equipment falling within their competence in the water sector which they hold under the provisions of article 2 of order n°87-289 of 20 October 1987, when these developments, installations or equipment have been acquired or carried out by the municipalities directly or through a delegated project manager or when they have been transferred to them by the State.

III. Delegated management of the public water service:

This involves entrusting the technical, commercial and financial management, following a call for tenders and under contractual arrangements, to an operator known as a 'delegatee'. This operator may be public, semi-public or private, subject to compliance with a set of specifications.

The water service in Mauritania is largely managed by public companies. SNDE manages the service in urban and semi-urban areas and the Office National des Services d'Eau en Milieu Rural (ONSER) manages almost all rural areas (more than 80% of localities).

Under the Water Code :

- Société Nationale des Eaux (SNDE) is deemed to have been delegated. Decree no. 2008-070 sets out the duration and conditions of this delegation. A set of specifications has been drawn up by the ARE, but has not yet been finalised or signed. This company is responsible for producing, transporting, distributing and marketing water in urban and semi-urban areas.

- The Agence Nationale d'Eau Potable et d'Assainissement (ANEPA) is deemed to have been delegated the task. Terms of reference have been drawn up by the AER, but have not yet been approved. In 2010, ANEPA's remit was transferred to ONSER , **which was created** by decree no. 2010-178 of 07/09/2010.

The first Water Public Service Delegation to the private sector was launched in 2008 in application of the provisions of the Water Code and its implementing regulations. Management of the water service in certain rural localities was thus transferred to private national companies (delegates) in accordance with specifications prepared, monitored and controlled by the Regulatory Authority.

By the end of 2022, the DSP will cover twelve (12) contracts managed by four (4) delegates and covering more than 100 localities in the country's five (5) wilayas.

After more than fourteen (14) years of experience, the PSD has reached maturity, as can be seen from the fact that the operators manage the networks entirely at their own risk, **without any subsidy from the State**. They are gaining experience and becoming more professional in the management of this public water service, and are showing an appetite to invest in drainage tools themselves.

The technical, commercial and financial aspects of delegated management of the public water service are assessed on the basis of a series of data and indicators, the calculation methods for

which are defined in the delegates' specifications. These data and indicators are monitored by the Regulatory Authority and published in its annual report.

The performance indicators monitored by the AER are, by way of example :

- Water resource management indicators: operating flow rate, distribution efficiency, delivery efficiency, etc;
- Installation operation indicators: number of days of service interruption, service interruption linked to heavy maintenance of the GE, interruption linked to the delivery network, interruption linked to the delivery network and to the distribution network;
- Management performance indicators: number of days of service interruption, service interruption linked to heavy maintenance of the GE, interruption linked to the delivery network and to the distribution network;
- Management performance indicators: number of connections made in the month, length of pipes laid, volume billed per domestic connection, number of complaints in the complaints book, average time taken to respond to complaints, compliance with instructions for chlorination of facilities, condition of the surroundings of public water supply points, commercial yield, payment of charges and taxes.

I. PSD process and stakeholder responsibilities

The PSD process can be summarised as follows:

- Project owner's request to the AER for a public service delegation;
- Preparation by the AER of the tender documents (draft specifications and RAO);
- AER launches the invitation to tender;
- AER receives and evaluates bids from tenderers;
- Declaration by the AER of the provisional successful tenderer;
- Finalization with the provisional successful tenderer of the specifications after receiving the final bond;
- Award of the public service contract to the Delegatee by the Contracting Authority;
- Handover of the facilities to the Delegatee in the presence of the Project Owner, the AER and the Commune.

The parties involved in the delegated management of the public water service are :

- **The Ministry responsible for water**: approves the water tariff proposed by the AER.

- **The Ministry responsible for water and the Communes as contracting authorities**:

o Owners of the water infrastructure in the delegated sites; in the case of the current DSP, the major works are carried out by the project owner (networks, water towers),

o Initiate the public-private partnership process by sending a letter to the AER asking it to launch the call for tenders for the recruitment of the delegatee;

o Award the licence to the delegatee selected following the invitation to tender conducted by the AER (ministerial or municipal award decree);

o Withdraw the licence from the PSDs on the proposal of the AER;

- The **Regulatory Authority**:

o Conducts the tendering process;

o Prepares the draft decrees (awarding and tariff) for submission to the contracting authorities;

o Draw up and monitor the implementation of the specifications for delegated management of the water service;

o Determines the principles of water pricing and proposes the equilibrium tariff for delegated management of water services to the Minister responsible for water for approval;

o Proposes amendments to delegations or specifications to the contracting authorities;

o Sanction, either on its own initiative or at the request of the contracting authority, a professional organisation, a user association or a natural or legal person with an interest in acting, any breaches it finds to have been committed by operators benefiting from a public service delegation;

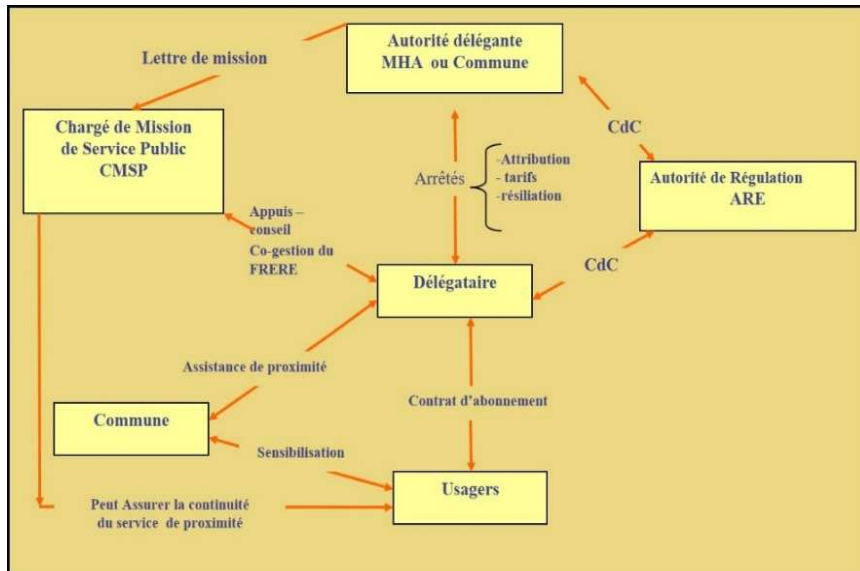
- **The Delegate**:

o Manages and risks the water service within the perimeter of its licence, for which it has exclusive rights to sell water;

o Sometimes participates in the initial investment in water extraction equipment (pumps, solar panels, etc.);

o Renews functional infrastructures (solar panels, generators, pumps, etc.).

- **The Public Service Contract Manager (CMSP)**: this is a public or private entity appointed by the project owner to provide support and advice to the Delegatee, and above all to ensure the continuity of the public service in the event of the Delegatee's failure.



DSP institutional structure

IV. Tariff calculation methods

The water sales tariff is calculated on the principle of guaranteeing the small financial balance of the operator, whose income is linked solely to the sale of water at the approved price (the operator does not receive any subsidy from the project owner). This price must cover all the costs incurred in managing the water service (operating costs, taxes and fees, provisions and costs linked to the depreciation of functional equipment (generators, solar panels, electric pumps, etc.). The renewal of the assets is the responsibility of the project owner.

At the outset, the AER prepares a provisional operating account based on data from the water supply project and ratios already calculated using the database acquired by the AER over years of experience (eg. The amounts for depreciation and provisions are paid into an account known as the Network Renewal and Extension Account (**FRERE**), which is debited with the amounts for network renewal, extension and heavy maintenance. The terms and conditions for managing the FRERE account were to be laid down in regulations, but this has not been done. It remained a virtual account managed by the AER for the purpose of financial monitoring of the management of the service.

The terms and conditions for revising the tariff are set out in the specifications.

V. Strengths and difficulties encountered

The diagnosis of the PSD experience in Mauritania revealed the following strengths:

- The DSP receives no subsidy from the project owner;
- It operates, maintains, markets and renews dewatering equipment (generators, solar systems, pumps) independently;
- It has a commercial yield of over 95%;
- Regulation by DSP allows regular monitoring of the quality of services provided to the population and enables disputes to be settled in the event of litigation;
- The PSD experience has enabled an up-to-date and exhaustive observatory of data to be set up in the delegated localities since it began;
- The PSD has contributed to job creation, with around 99 permanent jobs by 2022;
- Lastly, the CSP encourages decentralisation by supporting certain communes in the management of infrastructure in the case of communal project management.

A number of difficulties are hampering the development of the PSD, including

- The introduction of the law on Public Private Partnerships (PPP), which included in its scope the water sector already governed by a sectoral law. This inclusion created an overlap of responsibility between the various players and made the simplified public-private partnership process provided for in the Water Code more cumbersome;
- The unification of water tariffs at national level without providing for a compensation mechanism has unbalanced certain public-private partnerships;
- The absence of a Public Service Contract Manager in the majority of public service contracts;
- Delegate participation in initial investments remains limited;