ENERGY COUNCIL REVIEW FRAMEWORK FOR COMMENTS ON

THE COST RECOVERY RULES (CRR) FOR INDEPENDENT TRANSMISSION PROJECTS (ITPs)

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Background

The National Energy Regulator of South Africa (NERSA) has published a Consultation Paper on Cost Recovery Rules for Independent Transmission Projects (ITPs) with an Appendix 1: Draft Cost Recovery Rules for Independent Transmission Projects and invited written comments from stakeholder.

In response, the Energy Council of South Africa will prepare a consolidated submission on behalf of members. To facilitate structured comments and inputs, a **Response Review Matrix** has been developed to guide members in addressing key sections of the draft recommendations. While the matrix provides targeted prompts, members are encouraged to contribute any additional relevant insights.

Comments and inputs may be submitted to mihle.mnweba@energycouncil.org.za at the Energy Council. Your engagement is vital in shaping a regulatory framework that supports investment, transparency, and long-term energy system resilience.

Submission Deadlines:

- Member input to the Energy Council: **22 October 2025**
- Final submission to NERSA: **27 October 2025 at 16:00**

Thank you for your valued contributions to this important review process.

Introduction

The amended *Electricity Regulation Act, 2006 (Act No. 4 of 2006)* introduces the principle of enabling transmission infrastructure development through Section 34 determinations. This legislative provision allows for private sector participation in the development and operation of transmission systems—an emerging model in the South African context.

To ensure project bankability and regulatory certainty, NERSA has developed and approved the publications of the draft Cost Recovery Rules for ITPs for stakeholder consultation. These rules, aligned with the Act, aim to establish a transparent framework for cost recovery by buyers or users, and outline the following:

1. **Approval Process:** Steps for buyers to seek approval of costs incurred under Transmission Service Agreements (TSAs).
2. **Risk Transfer Assessment:** Evaluation of efficient risk allocation and mitigation mechanisms within TSAs.
3. **Key Evaluation Criteria:**
    - Affordability of proposed ITPs
    - Allocation of financial, technical, and operational risks between buyer and ITP
    - Anticipated value for money
    - Cost implications of shared infrastructure between ITPs and the National Transmission Company South Africa (NTCSA), e.g., transformation assets
4. **Additional Provisions:** Any other matters necessary to give effect to the rules.

Members are requested to use the accompanying commenting guide to respond to NERSA's stakeholder feedback request.

	Key Themes	Guiding Questions for Comments	Page Reference
1.	**Principles of the Cost Recovery Rules**	The main principle is that transmission capacity purchases, governed by these rules, should be acquired by the buyer in a cost-effective manner.	Appendix 1: pg. 8 &9 of 12
		Question 1 Are the principles outlined in the draft CRR (e.g., cost-effectiveness and balanced risk allocation) appropriate for ensuring fair and efficient cost recovery? If not, please provide reasons and suggest alternative principles	Consultation Paper: pp. 11
	Comments/Inputs		
2.	**Cost Recovery Principles**	**Question 2.1** Do the principles promote transparency, efficiency, and fairness in cost recovery?	Appendix 1: pg. 8 &9 of 12
	Comments/Inputs		
		Question 2.1 Are they consistent with broader tariff methodologies and regulatory frameworks?	Appendix 1: pg. 8 &9 of 12
	Comments/Inputs		

	Key Themes	Guiding Questions for Comments	Page Reference
3.	**Cost Recovery**	• In terms of the proposed CRR, transmission capacity costs authorised by NERSA will be recovered by the buyer as part of its annual allowable revenue through the transmission tariff. Recoverable costs include Transmission capacity payments made by the buyer to the ITP, Hedging Costs, Administration of Transmission Service Agreements (TSAs), including Professional Services, Termination Costs and Other Costs. • In accordance with the provisions outlined in section 2(g) of the Act, NERSA is mandated to ensure an equitable balance between the interests of customers and end-users, which includes the consideration of affordability, as well as the interests of licensees, investors in the electricity supply industry, and the broader public.	Appendix 1: pg. 10 &11 of 12
		Question 3.1 Do you think the factors used to evaluate ITP affordability, such as the cost of alternatives, network benefits, and security of supply, are appropriate? Please explain your reasoning and suggest any additional factors that should be considered.	Appendix 1: pg. 10 &11 of 12
	Comments/Inputs		
		Question 3.2	Appendix 1: pg. 10 &11 of 12

	Key Themes	Guiding Questions for Comments	Page Reference
		Are the provisions for recoverable costs, such as hedging, administration, and termination costs, comprehensive and fair? If not, please provide reasons and suggest modifications.	
	Comments/Inputs		
4.	**Cost Recovery Process**	**Question 4.1** Is the process for seeking approval of recoverable costs under TSAs clearly defined and practical?	Appendix 1: pg. 2 of 12
	Comments/Inputs		
		Question 4.2 Are the procedural steps and documentation requirements reasonable and enforceable?	Appendix 1: pg. 10 &11 of 12
	Comments/Inputs		

	Key Themes	Guiding Questions for Comments	Page Reference
5.	**Cost Recovery Mechanisms**	**Question 5** Is the process for cost recovery under TSAs clearly defined and practical? Are all relevant cost categories adequately covered (e.g. hedging, termination, administration)?	Appendix 1: pp. 10 of 12
	Comments/Inputs		
6.	**Non-Recoverable Costs**	**Question 6.1** Are the exclusions from cost recovery clearly justified and aligned with regulatory principles?	Appendix 1: pg. 10 of 12
	Comments/Inputs		
		Question 6.2 Could any listed non-recoverable costs create unintended disincentives for investment?	
	Comments/Inputs		

	Key Themes	Guiding Questions for Comments	Page Reference
7.	**Cost Recovery Submission Requirements**	**Question 7.1** Are the submission requirements for buyers clear, reasonable, and aligned with existing regulatory processes?	Appendix 1: pg. 11 of 12
	Comments/Inputs		
		Question 7.2 Is there sufficient guidance on format, timing, and supporting documentation?	
	Comments/Inputs		
8.	**Cost Recovery Approval Process**	**Question 8.1** Are the roles and responsibilities of NERSA and buyers in the approval process clearly outlined?	Appendix 1: pg. 7&8 of 12
	Comments/Inputs		
		Question 8.2 Are the timelines and procedural requirements realistic and conducive to effective implementation?	Appendix 1: pg. 7&8 of 12
	Comments/Inputs		

	Key Themes	Guiding Questions for Comments	Page Reference
9.	**Cost Recovery Implementation**	**Question 9.1** Is the process for integrating approved costs into tariffs and revenue streams clearly defined?	Appendix 1: pg. 7&8 of 12
	Comments/Inputs		
		Question 9.2 Are there any operational or timing risks that should be addressed?	
	Comments/Inputs		
10.	**Definitions**	**Question 10.1** Are the definitions sufficiently clear and aligned with existing regulatory and industry terminology?	Appendix 1: pg. 4&5 of 12
	Comments/Inputs		
		Question 10.2 Are there any terms missing or requiring refinement to avoid ambiguity in implementation?	Appendix 1: pg. 4&5 of 12
	Comments/Inputs		

	Key Themes	Guiding Questions for Comments	Page Reference
11.	**Purpose of the Rules**	**Question 11.1** Do the stated purposes reflect the practical needs of buyers, ITPs, and regulators?	Appendix 1: pg. 6 of 12
	Comments/Inputs		
		Question 11.2 Are the objectives comprehensive enough to guide implementation and oversight?	Appendix 1: pg. 6 of 12
	Comments/Inputs		
12.	**Application of the Rules**	**Question 12.1** Is it clear which entities, agreements, and projects these rules apply to?	Appendix 1: pg. 10 of 12
	Comments/Inputs		
		Question 12.2 Are there any exclusions or overlaps that could create confusion or regulatory gaps?	
	Comments/Inputs		

	Key Themes	Guiding Questions for Comments	Page Reference
13.	**Efficient Risk Transfer**	**Question 13.1** Are the principles for efficient risk transfer between buyer and ITP appropriate and balanced?	Appendix 1: pg. 9&10 of 12
	Comments/Inputs		
		Question 13.2 Do the rules adequately address risk mitigation and allocation?	
	Comments/Inputs		
14.	**Affordability**	**Question 14.1** Are the affordability criteria inclusive of all customer segments and tariff impacts?	Appendix 1: pg. 2 of 12
	Comments/Inputs		
		Question 14.2 Is there sufficient guidance on how affordability will be assessed and monitored?	Appendix 1: pg. 2 of 12
	Comments/Inputs		

	Key Themes	Guiding Questions for Comments	Page Reference
15.	**Value for Money**	**Question 15.1** Are the value-for-money assessment criteria robust and measurable?	Appendix 1: pg. 8-10 of 12
	Comments/Inputs		
		Question 15.2 Do the rules provide clarity on how economic efficiency and public benefit will be evaluated?	
	Comments/Inputs		
16.	**Asset Sharing & Infrastructure Interface**	**Question 16.1** Are the provisions for shared infrastructure with NTCSA clearly defined and equitable?	Appendix 1: p. 2 of 12
	Comments/Inputs		
		Question 16.2 Is there sufficient guidance on cost attribution and operational coordination?	Appendix 1: p. 2 of 12
	Comments/Inputs		

	Key Themes	Guiding Questions for Comments	Page Reference
17.	**Regulatory Certainty & Bankability**	**Questions 17.1** Do the rules provide sufficient clarity and predictability for private investors?	Consultation Paper: pp. 4–5 Appendix 1: p. 7
	Comments/Inputs		
		Questions 17.2 Are they aligned with Section 34 determinations and national policy?	
	Member Comments/Inputs		
18.	**Securing ITP Payments**	**Question 18.1** Do the rules provide adequate mechanisms for securing payments to ITPs under TSAs?	Appendix 1: p. 12 of 12
	Comments/Inputs		
		Question 18.2 Are the provisions sufficient to ensure financial viability and investor confidence?	
	Comments/Inputs		

	Key Themes	Guiding Questions for Comments	Page Reference
19.	**Governance & Submission Processes**	**Question 19.1** Are the roles of NERSA, buyers, and ITPs in the approval process clearly defined?	Consultation Paper: pp. 6–7
	Comments/Inputs		
		Question 19.2 Are the timelines and submission requirements reasonable and achievable?	
	Comments/Inputs		
20.	**General Observations / Additional Inputs**	**Question 20.1** Are there any gaps, ambiguities, or unintended consequences in the rules?	Entire document
	Comments/Inputs		
		Question 20.2 What improvements or clarifications would you recommend?	
	Comments/Inputs		

	Key Themes	Guiding Questions for Comments	Page Reference