NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

CONSULTATION PAPER

ON

COST RECOVERY RULES FOR INDEPENDENT TRANSMISSION PROJECTS (ITPs)

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1. EXECUTIVE SUMMARY

1.1 The National Energy Regulator of South Africa (NERSA) is a regulatory authority established as a juristic person in terms of section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) ('NERA'). NERSA's mandate includes the regulation of the Electricity Supply Industry.

1.2 The Energy Regulator (ER), in terms of section 3 of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) ('the ERA'), is the custodian and enforcer of the regulatory framework provided for in the ERA and has regulatory authority over persons undertaking activities that are subject to the ERA. The ER is therefore entrusted with the responsibility to ensure that the objectives of the ERA are achieved.

1.3 The ER is obliged in terms of section 4(a) (iv) of the ERA to issue rules designed to implement the national government electricity policy framework, the integrated resource plan and this Act.

1.4 Growing grid capacity constraints and a dynamic electricity generation market have highlighted the slow implementation of the Transmission Development Plan (TDP). The geographical disconnect between new renewable energy projects and the existing transmission network threatens South Africa's decarbonisation efforts. Furthermore, resource shortages limit the NTCSA's ability to expand and upgrade the national transmission grid.

1.5 In response to prevailing conditions, the South African government resolved to attract private investments into the transmission network. The Ministry of Electricity and Energy, in collaboration with the National Treasury and the National Transmission Company of South Africa (NTCSA), is advancing the implementation of Independent Transmission Projects (ITPs) as part of a broader strategy to accelerate private sector participation in the expansion and modernisation of South Africa's electricity transmission infrastructure. The ITP programme is founded on an open and competitive tender approach as a precursor to public private partnerships to implement privately funded transmission investments.

1.6 Following the Cabinet's endorsement in December 2023, the Ministry is preparing to issue the first tender for ITPs by 30 November 2025. NERSA was subsequently invited to participate in the Multi-Disciplinary Task Team (MDTT) for ITPs with the mandate to advise on the regulatory and legal framework for the ITP programme – incorporating the specific responsibility to establish the Cost Recovery Rules (CRR) to ensure that consumers pay for an efficient and reliable transmission grid and investors predictably recover their efficient investment.

1.7 As a result, the Energy Regulator has deemed it appropriate to set out key regulatory principles for the cost recovery of transmission capacity procured from ITPs, as outlined in the proposed CRR attached as **Appendix 1**.

1.8 In accordance with section 35 of the ERA, the Energy Regulator is obliged to undertake a consultation process prior to finalising any rules. To satisfy this requirement, this consultation has been developed to solicit comments from the public and relevant stakeholders on the proposed CRR.

Written comments should be sent to NERSA for the attention of **Mondli Shozi** at:

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The deadline for the submission of comments is 27 October 2025.

1.9 Kindly provide the name, address, telephone number, fax number and email address of the person or organisation submitting the comments. Submissions made after the deadline will not be considered.

1.10 NERSA will collate all comments received, which will be taken into consideration when the decision is made regarding the Cost Recovery Rules for ITPs.

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2. DEFINITIONS, ABBREVIATIONS AND ACRONYMS

2.1 DEFINITIONS

In this consultation paper, any word or expression to which a meaning has been assigned shall have a meaning so assigned, unless the context indicates otherwise.

Act	means the Electricity Regulation Act, 2006 (Act No. 4 of 2006), as amended or re-enacted from time to time.
Buyer	means the person designated by the Minister, as contemplated in section 34(3)(d) and (e) of the Act, as a buyer of electricity transmission infrastructure, which is the subject of a determination.
Determination	means a determination made by the Minister in terms of section 34(1)(b), read with section 34(3) and (4) and, where applicable, section 34(12), of the Act
Energy infrastructure project	means a project contemplated in section 34(12) of the Act.
Government	means the government of the Republic of South Africa.
Hedging costs	mean costs related to the purchase and administration of hedging instruments. These costs would typically include direct payments to intermediaries (those that effectively sell hedges) and any contingent liabilities emanating from mark to market accounting rules and/ or collateral requirements, and indirect costs of administration of the hedging activity by the purchasing utility.

Independent Transmission Project (ITP)	means a private party, selected pursuant to a procurement process specified in a determination, to establish transmission capacity on the basis that the transmission capacity in question will be made available to a user or purchased by a buyer.
Integrated Resource Planning (IRP)	means a public national planning process and framework within which the costs and benefits of both demand- and supply-side resources are evaluated to develop the least total-cost mix of utility power generation resource options, risk adjusted for probability and government policy.
National Treasury	means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
Organ of state	has the meaning assigned to it in section 239 of the Constitution of the Republic of South Africa, 1996
Private party	means a person, consortium or joint venture in which the Government or other organs of state do not hold a controlling ownership interest either directly or indirectly.
Procurer	means the person designated by the Minister in a determination, as the person responsible for the preparation, management and implementation of the activities related to the procurement of transmission capacity, including the negotiation of the applicable transmission services agreements, which person may or may not be the buyer or user.

Transmission capacity	means the electricity transmission infrastructure and associated activities that are the subjects of a determination, and which may include the design, construction, funding, management, maintenance or operation of such electricity transmission infrastructure.
Transmission Development Plan	means the transmission development plan applicable at the date of publication of a determination by notice in the Gazette.
Transmission Service Agreement	means the agreement to be entered into between the Project Company and the Buyer, under which the Project Company undertakes to provide transmission services (including the availability and performance of the transmission assets), in accordance with the terms, standards and services as set out in the ITP Procurement Programme.
TSO SOC	means the Transmission System Operator SOC Limited to be established in terms of section 34A of the Act, and for the period prior to establishment of TSO SOC, the National Transmission Company South Africa SOC Limited.
User	means a person designated by the Minister as contemplated in section 34(3)(d) and (e) of the Act as a user of electricity transmission infrastructure, which is the subject of a determination.
Value for money	means that the transmission capacity procured according to a determination results in a net benefit to the buyer or user, as the case may be, or to the Government,

having regard to cost, price, quality, quantity, risk transfer, social and economic benefit, or a combination thereof.

2.2 ABBREVIATIONS AND ACRONYMS

CRR	Cost Recovery Rules
ER	Energy Regulator
ERA	Electricity Regulation Act, 2006 (Act No. 4 of 2006)
IRP	Integrated Resource Plan
ITP	Independent Transmission Project
NERA	National Energy Regulator Act, 2004 (Act No. 40 of 2004)
NERSA	National Energy Regulator of South Africa
NTCSA	National Transmission Company South Africa
TDP	Transmission Development Plan

3. BACKGROUND AND INTRODUCTION

3.1 The National Energy Regulator of South Africa (NERSA) is a regulatory authority established as a juristic person in terms of section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) ('NERA').

3.2 NERSA's mandate is to regulate the electricity, piped-gas and petroleum pipeline industries in terms of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) ('the ERA'), Gas Act, 2001 (Act No. 48 of 2001) and Petroleum Pipelines Act, 2003 (Act No. 60 of 2003).

3.3 The National Transmission Company South Africa's (NTCSA's) Transmission Development Plan (TDP) (2024–2033) outlines the transmission infrastructure that will be required to ensure security of electricity supply in the medium to long term. Expanding and modernising transmission infrastructure is vital for South Africa's energy transition and economic growth.

3.4 In December 2023, the Cabinet endorsed the Independent Transmission Project (ITP) Programme to allow private sector participation in the development, financing, construction, and operation of new transmission infrastructure under a robust and transparent regulatory framework. This initiative is aimed at supporting the NTCSA in accelerating infrastructure rollout and integrating generation capacity, including renewable energy.

3.5 On 28 March 2025, in terms of section 34(1)(b) of the ERA, the Minister of Electricity and Energy published a determination for the procurement of new transmission infrastructure.

3.6 Since private transmission infrastructure investment is a new development in the South African context, there is a need to guarantee project bankability and secure cost recovery for the ITPs. To achieve this and ensure regulatory certainty, the Energy Regulator has established these Cost Recovery Rules (CRR) in accordance with the Act for the purpose of cost recovery by the buyer or user of the transmission capacity/services.

4. THE MAIN ASPECTS OF THE DRAFT COST RECOVERY RULES FOR ITPS DISCUSSED IN THIS CONSULTATION PAPER

4.1 The key aspects of the draft Cost Recovery for ITPs discussed in this consultation paper include the following:

i. Principles of the Cost Recovery Rules
ii. Cost Recovery
iii. Risk Allocation
iv. Revenue and Cost Pass-Through

4.2 NERSA is raising issues on the key aspects of the CRR to encourage stakeholders to provide their opinions and input. Stakeholder feedback will assist NERSA in making a well-informed decision.

Principles of the Cost Recovery Rules

4.3 The main principle is that transmission capacity purchases, governed by these rules, should be acquired by the buyer in a cost-effective manner.

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

Cost Recovery

4.4 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.

4.5 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.

Question 2:

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.

Question 3:

Are the provisions for recoverable costs, such as hedging, administration, and termination costs, comprehensive and fair? If not, please provide reasons and suggest modifications.

Risk Allocation

4.6 The CRR indicates that NERSA will assess the transfer of specific risks defined in TSAs to ensure that the principle of efficient risk transfer is met, whereby the party best able to manage specific risks is allocated those risks.

Question 4:

Do you agree with the principle of efficient risk transfer? Please motivate your response and suggest any changes to the risk allocation framework.

4.7 Stakeholders are requested to comment on the General Framework.

Question 5:

Currently, there is no pricing methodology that accommodates ITPs. Please provide your thoughts on whether the proposed CRR supports government initiatives as outlined in section 34 of the Act. Does the draft CRR offer sufficient regulatory certainty for stakeholders? Please explain your reasoning and highlight any areas where further clarification or additional details may be necessary.

5. CONSULTATION PROCESS WITH INDICATIVE TIMELINES

5.1 Stakeholders and the public are invited to submit written comments regarding the issues presented in this Consultation Paper.

5.2 Written comments should be sent to NERSA for the attention of **Mondli Shozi** at:

Physical address: Kulawula House
526 Madiba Street
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5.3 Please submit your comments through the specified platforms above. Please include your full name or the name of your organisation, postal address, telephone number, fax number, and email address for acknowledgment and follow ups.

5.4 Please be advised that the deadline for all submissions is 27 October 2025. Any comments received after this date will not be considered.

5.5 NERSA values all contributions and will consider each comment carefully in the decision-making process for the Cost Recovery Rules. Your input is vital and can significantly influence the outcome.

ATTACHMENT

Appendix 1: Draft Cost Recovery Rules for the Independent Transmission Projects (ITPs)