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# NERSA Market Inquiry

SUBMISSION TO THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA IN TERMS OF ITS MARKET INQUIRY INTO THE IMPACT OF FIXED CHARGES, GENERATION CAPACITY CHARGE AND OTHER CHARGES LEVIED BY ELECTRICITY DISTRIBUTORS

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# Introduction

- This document contains a submission to the NERSA Market Inquiry into Fixed Charges, the Generation Capacity Charge (GCC), and other related charges levied by electricity distributors, including Eskom and municipalities.
- We also request an opportunity for Dr Grové Steyn to present at the NERSA public hearing on the matter.
- We have elected to limit our submission to two topics:
  1. The requirement for adequate information disclosure:

The practical and legal requirement for adequate information disclosure from licensees for stakeholders to comment effectively on the factual and methodological basis for the fixed generation capacity charges proposed by Eskom (and already partially approved by NERSA).
  2. The need for customers to have appropriate options to utilise (and pay for) alternative sources of generation capacity and then to be exempt from paying the Eskom Generation Capacity Charge.



# Eskom information disclosure gaps

- **Problem statement:**

- Eskom and municipalities do not publicly disclose their cost of service methodologies, underlying data and cost allocation models (“cost to serve” studies) to show how approved costs under the MYPD are translated into specific tariff components.
- Without access to these datasets and methodologies, stakeholders cannot meaningfully engage and query how electricity tariffs are determined nor can they assess whether tariffs are cost-reflective, efficient or fair.

- **Judicial Alignment**

- **AfriForum NPC v NERSA [2024] ZAGPPHC 638 (8 July 2024)** established that transparency in cost of service studies is a constitutional requirement for meaningful public participation in tariff-setting.
- **AfriForum NPC v NERSA (High Court, Pretoria, Judgment 31 Oct 2025)** reaffirmed and extended this principle, holding that NERSA’s continued treatment of cost of service information as confidential is unlawful and that full publication is required for both municipal and Eskom tariff processes. The Court described these studies as “public instruments of accountability” and are essential to ensure efficiency, transparency and meaningful stakeholder engagement in tariff-setting processes.



# Eskom information disclosure gaps

- Stakeholders require clear visibility into how Eskom translates its NERSA-approved revenues into actual tariff structure – including assumptions, allocation methods and information linking costs to each tariff component.
- If this methodology and datasets are not disclosed currently, it prevents meaningful stakeholder scrutiny of whether tariffs are cost-reflective, efficient and non-discriminatory as required by the ERA and the Electricity Pricing Policy.
- The legal requirement for the full disclosure of the cost of supply studies actually relied upon by Eskom to develop their tariff rebalancing proposals, including the Generation Capacity Charge, was reaffirmed by the High Court in the **AfriForum NPC v NERSA (31 Oct 2025)** judgement.



# GCC: alternative options for providing “standby capacity” – market supplied

- Eskom has proposed that fixed Generation Capacity Charges be applied to cover the cost of the “standby capacity” it supplies. They argue that currently, most of this cost is recovered through variable (kWh) charges, and suggest a shift towards fixed GCC charges.
- However, it should not be automatically assumed that Eskom is the sole provider of the necessary “standby capacity.”
  - According to the SAWEM framework, the System Operator will secure system reserves through the Day-Ahead Market (co-optimised with day-ahead energy). Additionally, market mechanisms include a short-term capacity scheme designed to address the “missing money” issue. Given South Africa’s open competitive power market, not all required reserves (“standby capacity”) will come from Eskom.
  - Other capacity providers, such as those using batteries, demand response, or standby generators, will also contribute resources to the market. Therefore, revenues generated from the GCC should also be allocated to compensate these providers.



# GCC: alternative options for providing “standby capacity” – customer supplied

- Background
  - Customer Generation Capacity Charges are applied on an annual utilised capacity (AUC) basis.
    - AUC is defined in the Eskom tariff booklets as “the higher of the notified maximum demand (NMD) or the maximum demand, per point of delivery (POD), measured in kVA and registered during a rolling 12-month period.”
  - Customers can already reduce their use of power system supplied “standby capacity” by installing batteries or generators behind the meter to reduce AUC. This benefits the power system by freeing up system “standby capacity” for other users.
- Customer options for reducing their AUC (for the purposes of the GCC) should be extended to wheeling resources - i.e. the rules should be neutral with respect to whether customer procured resources to reduce their AUC are provided behind or in front of the meter.
  - Allowing for customer choice of where their power resources are sourced from is an important tenet of the ERA.
  - A precedent has already been set in a related context by NRS 048-9 section 4.12.2 on “Licensee or private generation”
    - already recognises that wheeled energy should be taken into account for either calculating a customer’s “base load” or its load reduction (as appropriate).
- Benefits
  - Allowing for all customer supplied options will further stimulate the competitive market for power resources by improving the business case for private sector backed battery resources (large battery investments are required) and demand response.



# Conclusions

- Sufficient information disclosure
  - Complete transparency regarding Eskom's cost of supply analyses and methodologies is crucial for effective and lawful stakeholder engagement during the current market inquiry or any future tariff-related decisions.
- "Standby resources" and the Generation Capacity Charge (GCC)
  - The System Operator should acquire and remunerate standby resources competitively, using the GCC as the funding source to cover these costs.
    - GCC charges should only apply when customers do not provide "standby capacity" through alternative means.
    - Customers should be able to achieve this either by:
      - lowering their annual utilised capacity via behind-the-meter solutions; or
      - by transferring energy across the grid during coincident periods to offset their peak demand.
- The recommendations presented here are legally mandated. Non-compliance will simply allow the dominant market player to abuse its market power.
- Proper disclosure of key market information and the implementation of suitable price and investment signals will encourage efficient investment and consumption behaviours among power users, supporting a more reliable and affordable power supply for all.



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