

REPORT FROM THE DIRECTOR FINANCIAL SERVICES

PURPOSE OF THE REPORT

To provide council an update regarding the municipal electricity tariff approval process emanating from the High court judgment in favour of Afriforum NPC regarding the 2025/26 public participation process pertaining to the approval of municipal electricity tariff applications and to present to council the proposed 2026/27 electricity tariffs subject to NERSA's final approval.

BACKGROUND

Municipal electricity tariffs was approved by NERSA in June 2025 for implementation in July 2025. Court action was instituted by Afriforum NPC to challenge the tariff approval process and set aside the tariff decisions. Judgement was delivered on 31 October 2025.

DISCUSSION

A Court Judgement/Ruling:

1. The judgement made on 31 October 2025 states the following;
 - That the 2025/26 electricity tariffs remain valid
 - Future tariff approvals must follow procedurally fair approval timelines and COS subject to stakeholder consultation
 - It calls for municipal tariff applications by 20 March 2026
2. A final order was made on 04 December that states the following:
 - ❖ Eskom was directed to file its annual Eskom Retail Tariff and Structural Adjustment ERTSA application on or before 31 August to enable NERSA to comply with the 3rd paragraph a below.

- ❖ NERSA is directed to timeously comply with its obligations as public entity, and as envisaged in section 35(c)(ii) of the Municipal Finance Management Act, to timeously provide information and assistance to municipalities to enable municipalities to prepare their budgets in accordance with the processes set out in Chapter 4 of the MFMA. In pursuance of the aforesaid, the following directions are issued:
- (a) By 31 January of every year, NERSA must give municipal licensees written notice of bulk or wholesale tariffs at which municipal licensees shall purchase electricity from Eskom, or any other licensed generator, for the next financial year;
 - (b) The notice referred to above shall in addition require municipal licensees to submit their electricity tariff applications by no later than 20 March of every year, failing which they run the risk of no tariff increase being approved;
 - (c) NERSA is directed to comply with the provisions of section 4 of PAJA, and the regulations published in terms thereof, in respect of whichever procedure for public participation it chooses, in terms of section 4 of PAJA, for considering and approving municipal electricity tariff applications;
 - (d) For purposes of meaningful public participation, NERSA is directed to publish every municipal electricity tariff application along with its cost of supply study for that particular financial year, in a manner that makes it accessible to the public, provided that, where a municipal electricity tariff application does not include a cost of supply study for the financial year, NERSA must specifically state the absence of such costs of supply study;
 - (e) NERSA is directed to finalise the process of considering the municipal electricity tariff applications timeously received and communicate its decisions on or before 05 May of every year, while Municipal Budget is approved by Council 31 May of every year ;
 - (f) NERSA must simultaneously also publish all of the respective decisions it reached on the municipal electricity tariff applications received; and

(g) NERSA may not unilaterally extend, or deviate from, the aforesaid timeframes for municipal electricity tariff applications timeously received without good cause shown to the satisfaction of the court.

- ❖ Every municipality that submits an electricity tariff application must take all reasonable steps to ensure that the public participation process NERSA chooses regarding municipal tariff applications is brought to the attention of the Public within its jurisdiction.
- ❖ ESKOM and each municipality is directed to comply timeously with the aforesaid timeline; provided that, on good cause shown to the satisfaction of the court, the court may sanction a deviation on such terms as it deems meet.
- ❖ The High Court judgement obligates municipalities to move the 2026/27 electricity tariff review process forward. There are however concerns shared and raised by municipalities in terms of the following:
 - Absence of an approved FY2026/27 ERTSA
 - Tight timelines for completing Cost-of-Supply (COS) studies
 - Internal municipal budget approval processes
 - Limited technical capacity at municipal level
 - Budget cycle misalignment
 - Data quality challenges
 - Fear of legal challenges due to non-compliance
- ❖ Nersa has challenged the judgement based on these concerns and filed an urgent application which sat down for a hearing on 17 February 2026. The application sought relief for inter alia an order for deviation from the court-sanctioned timeframes on the court order dated 04 December 2025 in respect of the 2026/2027 municipal tariff application cycle. The urgent notice to municipalities regarding the urgent application by Nersa//Afriforum & others is attached as annexure B.

- ❖ Eskom has published its consultation paper on the Eskom Retail Tariff Structural Adjustment (ERTSA), effectively calling for a bulk purchase increase of **9.01%** for municipal customers and **8.76%** for direct Eskom customers. Eskom's ERTSA application is attached as annexure C.
- ❖ The ERTSA is expected to be considered for approval on the 4th of March 2026 as per Nersa's media statement dated 14 December 2025 attached as annexure E.
- ❖ At this stage **all municipalities needs to comply with the judgement of 04 December 2025**. Nersa communicated that all licensed distributors are implored to submit their FY2026/27 electricity tariff applications on or before 20 March 2026. All tariff applications will be published with their associated cost of supply (COS) studies.
- ❖ As Eskom Retail Tariff Structural Adjustment (ERTSA) is a greater building block in the formulation of the municipal tariff, NERSA will engage with Eskom to fast-track the submission of the ERTSA application to ensure that the rule of law, including compliance with Municipal Finance Management Act 56 of 2003, is upheld and court rulings are complied with. as it is not challenged by the respondents which means that the proposed tariffs for 2026/27 needs to be considered and supported by council

B. Cost of Supply Study

- ❖ Knysna Municipality appointed Re-Solve/EAS JV to develop a Cost of supply study in order to determine a cost reflective tariff structure for electricity services. The findings of said cost of supply study will be presented at this meeting by Re-Solve/EAS JV.
- ❖ The key finding of the cost of supply study is that the municipality needed to increase its tariffs on 5% average to achieve full cost-reflectivity in 2026/27.
- ❖ Tariff structures were kept as is and increased by 5% for Business and Other Categories as well as Residential Customers respectively to achieve an overall average tariff billed of R3.09.

FINANCIAL IMPLICATIONS

1. As per Annexure G : Knysna Municipality - Proposed Electricity Tariffs_2026/27

RELEVANT LEGISLATION

Policy and Law:

EPP, 2008

ERA, 2006, AS AMENDED

MFMA, MSA, PAJA

Judgements and Case Law:

2020: GUIDELINE/BENCHMARKING UNLAWFUL

2024: COS MANDATORY FOR TARIFFS APPLICATIONS

2025: ADEQUATE CONSULTATION – PAJA COMPLIANT

RECOMMENDATION OF THE CHIEF FINANCIAL OFFICER

1. That Council takes note of the High Court Judgement attached as Annexure A.
2. That Council **approve** the proposed 2026/27 electricity tariff increase of 5% based on the electricity cost of supply outcome.
3. That Council support the tabling and submission of Electricity Tariffs to NERSA in line with the high court order.
4. That Council notes that Nersa will consider the 2026/27 proposed electricity tariff application for final approval.
5. The Acting Municipal Manager makes public the proposed electricity tariff increase and invite the local community to submit representations in connection thereof as required by the high court order.

APPENDIX / ADDENDUM

2. Annexure A : Afriforum NPC v NERSA and others – Judgement
3. Annexure B : - Circular 07 of 2026 to Municipalities NERSA Urgent Application for Deviation of timeframes
4. Annexure C : Eskom submission to NERSA - FY2027 ERTSA Application
5. Annexure D : NERSA presentation
6. Annexure E : NERSA Media Statement – Outcomes of workshop with electricity distributors on tariff applications for 2026/27 financial

year

7. Annexure F : Re-Solve/EAS JV – Electricity cost of supply study
8. Annexure G : Knysna Municipality - Proposed Electricity Tariffs_2026/27

File Number: 9/1/2/10

Execution: Director Financial Services