NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

Decision and Reasons for Decision (RfD)

In the matter regarding the

Private Distributor Tariff Application for the 2026/27 Financial Year

By

Vleesbaai Dienste Private Distributor

THE DECISION

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1. At its meeting held on 4 May 2026, the Regulator Executive Committee (REC) considered Vleesbaai Dienste's tariff application. Based on the facts and evidence presented, the REC approved the tariff increases for the 2026/27 financial year (FY), as set out in the tariff analysis section 7 on page 14 of this document.

2. Based on the information submitted and the analysis conducted, the REC decided:

2.1. to approve the tariffs that are based on the Cost of Supply (COS) study as recommended in the tariff analysis section for implementation by the municipality with effect from 1 October 2026;

2.2. to note the COS study submitted by the municipality;

2.3. that the municipality must submit a report accounting for all the costs that have been noted in its COS study to enable the National Energy Regulator of South Africa (NERSA) to perform its independent verification/audit process by 31 January 2027.

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ABBREVIATIONS

AFS	Annual Financial Statements
COS	Cost of Supply
D-form	Distribution form
ERTSA	Eskom Retail Tariff Structural Adjustments
FBE	Free Basic Electricity
IBT	Inclining Block Tariff
IPP	Independent Power Producer
MFMA	Municipal Finance Management Act
NERA	National Electricity Regulation Act
NERSA	National Energy Regulator of South Africa
OPEX	Operating Expenditure

1. INTRODUCTION

1.1. The National Energy Regulator of South Africa (NERSA) receives and considers tariff applications on a yearly basis, in accordance with the mandate of the Energy Regulator to regulate prices and tariffs. Municipal tariffs must be approved by the Energy Regulator to be implemented on 1 July of each financial year.

1.2. Vleesbaai is situated in the Western Cape. The private distributor exclusively supplies electricity to domestic conventional customers on standard tariffs, a customer base predominantly comprising holiday homes. Given the consumption patterns of the customers, which are largely influenced by major holidays in the year, the private distributor conducts billing only twice (beginning of February and August) a year. The financial year of the private distributor starts in October and ends in September each year.

1.3. The municipality further reports that it maintains an indigent register. The details regarding customer statistics are highlighted in Table 1 below.

Table 1: Customer Statistics (Data obtained from the latest D-forms – 2024/25FY

Customer categories	**MWh**	**% MWh**	**Customer numbers**
Domestic conventional	1 055	100	380
TOTAL	**1 055**	**100**	**380**

1.4. NERSA received Vleesbaai's tariff application together with its Cost of Supply (COS) on 31 March 2026.

1.5. Vleesbaai implemented a 12.74% average price increase in 2025/26FY and is applying for an average price increase of 8.76% for the 2026/27FY.

1.6. NERSA followed the notice and comment consultation process. Vleesbaai's tariff application was published on the NERSA website on 31 March 2026, on social media platforms and in national and local newspapers to solicit written comments from affected parties.

1.7. NERSA's decision was made on 4 May 2026, taking into consideration the written comments received from the affected stakeholders and the analysis performed by NERSA.

2. LEGAL AND REGULATORY FRAMEWORK

2.1. Background

2.1.1. The approval of municipal electricity tariffs constitutes a core regulatory function of the Energy Regulator and must be exercised in accordance with the applicable legislative framework, national policy directives and court orders. The principal legal instruments governing the exercise of this regulatory authority include the National Energy Regulator Act, 2004 (Act No. 40 of 2004) ('NERA'), the Electricity Regulation Act, 2006 (Act No. 4 of 2006) as amended ('ERA'), the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) ('PAJA'), and the Electricity Pricing Policy for the South African Electricity Supply Industry, 2008 ('EPP').

2.1.2. The approval of private electricity distributor tariffs follows the Eskom Multi-year Price Determination and the Eskom Retail Tariff and Structural Adjustment decision.

2.1.3. In addition, the municipal tariff approval process has recently been the subject of judicial scrutiny in the High Court of South Africa (Gauteng Division, Pretoria) in AfriForum NPC v National Energy Regulator of South Africa and Others (Case No. 2025/137620), which resulted in structural directives governing the timing and conduct of NERSA's tariff approval process.

2.1.4. This section provides the legal and policy context within which the Energy Regulator evaluated and determined the municipal electricity tariff application for the 2026/27 municipal financial year.

2.1.5. The inclusion of surpluses by private electricity distributors raises issues of statutory authority, tariff regulation, administrative legality, competition law, and constitutional compliance in the South African electricity sector. A private distributor has no inherent taxing or revenue-raising power. Unlike municipalities, private distributors do not possess constitutional fiscal powers and cannot cross-subsidise unrelated services unless lawfully authorised. If a private distributor includes a surplus merely to generate profit outside approved tariff structures, the charge may be ultra vires, unlawful.

2.1.6. Some of the key distinctions between municipal surplus and private distributor profit can be summarised as follows:

Municipal Surplus	Private Distributor Surplus
Permitted under the municipal fiscal framework	Requires explicit legal authorisation
Used for public services and cross-subsidisation	Usually, private commercial gain
Subject to constitutional accountability	Subject to licensing, incorporation and contract law
Approved via municipal budgeting processes	

2.2. NERSA's Statutory Mandate

2.2.1. NERSA is established as a juristic person in terms of section 3 of the NERA. In terms of section 4 of NERA, the Energy Regulator, as the decision-making body, must regulate the electricity industry and execute the functions set out in the ERA. The electricity regulatory mandate of the Energy Regulator is therefore primarily governed by the ERA. Section 3 of the ERA particularly provides that the Energy Regulator is the custodian and enforcer of the national electricity regulatory framework and exercises regulatory authority over activities regulated under the ERA.

2.2.2. In particular:

a) section 4(a)(i) of the ERA provides that the Energy Regulator must consider applications for licensees and may issue licenses subject to conditions;
b) section 4(a)(ii) of the ERA provides that the Energy Regulator must regulate prices and tariffs; and
c) section 14(1)(d) of the ERA authorises the Energy Regulator to impose license conditions relating to the setting or approval of prices, charges, rates and tariffs charged by licensees.

2.2.3. Municipalities distributing electricity do so under electricity distribution licenses issued by the Energy Regulator and are therefore subject to the tariff approval framework established under the ERA.

2.3. Tariff Determination Principles under the ERA

2.3.1. When determining or approving electricity tariffs, the Energy Regulator must apply the principles contained in section 15(1) of the ERA.

2.3.2. Section 15(1) provides that the Energy Regulator:

a) must enable an efficient licensee to recover the full cost of the licensed activity;
b) must allow for a reasonable return commensurate with the risk of the licensed activity;
c) may provide incentives for continued improvement of technical and economic efficiency;

d) must avoid undue discrimination between customer categories;
e) may permit cross-subsidies of tariffs to certain classes of customers; and
f) may have regard to the need to ensure security of supply, diversity of supply and the promotion of renewable energy.

2.3.3. These statutory requirements form the core legal principles guiding the determination of electricity tariffs within the South African electricity supply industry.

2.4. **Administrative Law Requirements**

2.4.1. The approval of municipal electricity tariffs constitutes administrative action as defined in section 1 of the PAJA. Accordingly, the Energy Regulator must ensure that its tariff determinations are lawful, reasonable and procedurally fair as required by sections 3 and 6 of PAJA. Procedural fairness requires that affected parties and the public be afforded a reasonable opportunity to make representations before a final decision is taken.

2.4.2. Public participation processes conducted by the Energy Regulator therefore form an essential component of the municipal tariff approval process and are intended to ensure transparency, accountability and fairness in regulatory decision-making.

2.5. **Policy Framework: Electricity Pricing Policy (2008)**

2.5.1. In addition to the statutory framework, the Energy Regulator must have regard to the EPP. The EPP establishes national policy principles for electricity tariff setting, including cost reflectivity, transparency, economic efficiency and equity.

2.5.2. Policy Position 1 of the EPP provides that the revenue requirement for a regulated licensee must be set at a level that covers the full cost of production, including a reasonable risk-adjusted margin or return on appropriate asset values.

2.5.3. Policy Position 2 states that electricity tariffs must reflect the efficient cost of rendering electricity services accurately and that the average level of tariffs must be set to recover the approved revenue requirement.

2.6. **Cost of Supply Studies**

2.6.1. The EPP recognises that cost-reflective tariff structures require a sound understanding of the underlying cost drivers associated with electricity distribution.

2.6.2. Paragraph 8.1 of the EPP notes that Cost of Supply methodologies have historically not been consistently applied across the electricity distribution industry.

2.6.3. Policy Position 23 therefore requires electricity distributors to undertake Cost of Supply studies at least every five years, or when significant structural changes occur in the customer base or cost structure.

2.6.4. Such studies must be conducted in accordance with the methodology approved by NERSA and must accompany tariff structure applications submitted to the Energy Regulator.

2.7. **Judicial Oversight of the Tariff Approval Process**

2.7.1. The municipal tariff approval process administered by NERSA was the subject of litigation in AfriForum NPC v National Energy Regulator of South Africa and Others (Case No. 2025/137620) before the High Court of South Africa, Gauteng Division, Pretoria.

2.7.2. In its final judgment delivered on 4 December 2025, the Court held that NERSA's public participation process relating to the 2025/26FY municipal tariff approvals did not comply with the procedural requirements of section 4 of PAJA and was therefore unlawful.

2.7.3. However, recognising the potentially disruptive consequences of setting aside tariff determinations already implemented by municipalities, the Court declined to invalidate the tariffs. Instead, to assist in the timely and lawful approval of municipal tariffs, the Court issued a structural interdict regulating the municipal tariff approval process going forward.

2.7.4. NERSA subsequently launched a variation application which sought to vary the timelines which were set by the Court on 4 December 2025, considering the practical difficulties which arose as it relates to the NERSA's compliance with the Court order. The court, having heard NERSA's application, granted the variation application in respect of the fixed deadlines for the 2026/27FY municipal tariff approvals.

2.8. **Court-Directed Timelines**

2.8.1. The timelines below are applicable in respect of the 2026/27FY municipal tariff approvals:

a) written notice of bulk tariffs by 6 March 2026;
b) municipal tariff applications to be submitted by 31 March 2026;
c) public participation processes to be concluded by 21 April 2026
d) the publication of NERSA decisions by 11 May 2026.

2.8.2. Municipal tariff approvals from 2027/28FY are to comply with the following timelines:

a) written notice of bulk electricity tariffs must be communicated by 31 January each year;

b) municipal tariff applications must be submitted to NERSA by 20 March each year;
c) municipal tariff approvals and the tariff reasons for decision document must be approved and published by 5 May of each year.

2.9. **Conclusion**

2.9.1. The determination of municipal electricity tariffs by the Energy Regulator must therefore be undertaken within a comprehensive regulatory framework consisting of the NERA, ERA, PAJA, EPP and the binding judicial directives issued by the High Court in AfriForum NPC v NERSA (Case No. 2025/137620).

2.9.2. The reasons that follow in this Reasons for Decision document demonstrate how the Energy Regulator complied with the legislative, policy and judicial framework in determining the municipal electricity tariff for the 2026/27FY municipal financial year.

3. FINANCIAL AND TECHNICAL PERFORMANCE

3.1. In evaluating the financial and technical performance of Vleesbaai, the assessment relied on the Distribution forms (D-forms) for the 2024/25FY submitted as part of the licensee's tariff application. The information contained in the D-forms was verified against the supporting source documents provided by the municipality, including the Trial Balance and Annual Financial Statements. As a result, the data captured in the D-forms is considered reliable for the purposes of the tariff analysis.

3.2. Table 2 below indicates that Vleesbaai's electricity business recorded an increase in the percentage deficit from -23.88% in the 2023/24FY to -33.29% in the 2024/25FY. The deficit is attributed to increases in bulk purchases from Eskom and repairs and maintenance. Vleesbaai Dienste's financial indicators cannot be compared to the municipal financial benchmarks, as it is a private distributor; consequently, its financial analysis is conducted as a high-level test for financial performance and viability. The private distributor indicated that its aim is not to make a profit but to break even. Any profit that might be generated is given back to its consumers at the end of the financial year.

3.3. The energy losses declined slightly from 9.59% in the 2023/24FY to 9.15% in the 2024/25FY, as highlighted in Table 2 below. The private distributor is encouraged to keep energy losses at low levels.

Table 2: Performance Indicators

Performance indicators	***Municipality 2024/25 D-forms Information***	***Municipality 2023/24 D-forms Information***
Percentage surplus: (%)	-33.29	-23.88[1]
Energy Losses: (%)	9.15	9.59

4. DETERMINATION OF VLEESBAAI'S TARIFFS BASED ON THE COST OF SUPPLY STUDY

4.1. The private distributor submitted its existing COS study to support tariff application that is scheduled for approval in the 2026/27FY. The COS study was inclusive of all the requirements of NERSA's approved COS framework (i.e., revenue requirement, cost functionalisation, cost classification, cost allocation and rate setting).

4.2. Policy position 23 states that: '*Electricity distributors shall undertake COS studies at least every five years, but at least when significant licensee structure changes occur, such as in customer base, relationships between cost components and sales volumes. This must be done according to the approved NERSA standard to reflect changing costs and customer behaviour. The cost-of-service methodology used to derive tariffs must accompany applications to the regulator for changes to tariff structures'.*

4.3. Section 18.7 of the October 2023 NERSA-approved Cost of Supply Framework states that:

> *An adjustment index will be issued to licensees to allow them to submit the tariff applications, which will be used to determine the costs that must increase with CPI, purchase costs, and other OPEX. Where annual plans, such as repairs and maintenance, and CAPEX plans, have been assessed and approved by NERSA, these can be adjusted based on that.'*

4.4. The private distributor submitted information on the cost structure of supplying electricity. After considering all the costs incurred in supplying electricity, the analysis shows that the distributor's actual costs increase by 8.76%, as calculated in Table 3 below. The private distributor outsources contractors to conduct meter reading, auditing, billing and other related services at least twice in a financial year; hence, there are only three cost line items in Table 3 below.

[1] Percentage surplus formula = (total income-total expenditure)/total income

Table 3: Cost structure applicable to the private distributor

	(EX VAT)		(EX VAT)	
Cost Line Item	**2025/26 Costs-**	**% Contribution to total costs**	**2026/27 Costs-Projected**	**% Contribution to total costs**
Purchases	R3 109 118,51	**85%**	R3 381 477,29	**85%**
Maintenance/Refurbishment	R198 947,00	**5%**	R216 374,76	**5%**
Capital Charges	R332 000,00	**9%**	R361 083,20	**9%**
Contractor services	R0,00	**0%**	R0,00	**0%**
Total expenditure	**R3 640 065,51**	**100%**	**R3 958 935,25**	**100%**
Percentage Increase (%)	**8,76%**			

4.5. The licensee applied for a bulk purchase expenditure of R3.3 million, which accounts for 85% of total costs, in line with the act that requires only the prudently and efficiently incurred costs to be passed through to customers.

4.6. To get to the 2026/27FY estimate, the licensee projected the year-to-date amount for 2025/26FY since complete financial year data is unavailable, then estimated that this cost item would increase by 8.76% in line with the approved Eskom Retail Tariff Structural Adjustments (ERTSA) for non-municipal key industrial and urban customers.

4.7. The Eskom bills were analysed, and no Notified Maximum Demand (NMD) exceedance penalties were charged. Furthermore, the licensee is up to date with its Eskom bulk account and therefore does not incur interest charges.

4.8. Maintenance and Refurbishment expenditure relates to the repair, servicing, restoration, and upkeep of existing electricity distribution infrastructure, including substations, transformers, lines, cables, and associated equipment. The expenditure is incurred to maintain network reliability, extend asset life, ensure safety, and support the continued provision of electricity services. The applied-for charges increased by 8.76% from R198,000 in the 2025/26FY to R216,000 in 2026/27FY.

4.9. Vleesbaai's electricity business has 2 tariffs:

4.9.1. **Fixed Levy**

Fixed Levy is for the fixed costs, and it includes Eskom's fixed cost, maintenance budget, capital budget and meter reading cost. The fixed levy remains constant for 2026/27FY as no profit was added to the fixed costs. Vleesbaai does not levy basic charges directly on customers' monthly electricity accounts; however, this does not imply that basic charges are not recovered. Instead, these costs are incorporated into the monthly levy paid by property owners to the non-profit entity.

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8. CONFIDENTIALITY

8.1. None.

9. CONCLUSION

9.1. From a conspectus of the facts and evidence presented to the REC, supporting information, stakeholder inputs, and applicable legal framework, it is appropriate to consider and approve Vleesbaai's tariff application as set out in this Reasons for Decision for the 2026/27FY.

End.