NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

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The Decision and Reasons for Decision

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The Decision and Reasons for Decision (RfD)

In the matter regarding the

Municipal Tariff Application for the 2026/27 Financial Year

By

uPhongolo Local Municipality

THE DECISION

At its meeting on 30 April 2026, the Regulator Executive Committee (REC) considered the uPhongolo Local Municipality's tariff application. Based on the facts and evidence presented, the REC approved the tariff increases for the 2026/27 financial year, as set out in section 8 of the tariff analysis on page 20 of the RFD.

Based on the available information and the analysis performed, the REC decided:

1. to approve the tariffs that are based on the Cost of Supply (COS) Report as recommended in the tariff analysis section for implementation by the municipality with effect from 1 July 2026;
2. to note the COS Report submitted by the municipality;
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; and

4. that the municipality must submit a quarterly progress report on the efficiency improvement measures taken to reduce high energy losses and deficits to enable NERSA to monitor the implementation thereof by 30 September 2026.

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ABBREVIATIONS

COS	Cost of Supply
D-form	Distribution form
ERTSA	Eskom Retail Tariff Structural Adjustments
FBE	Free Basic Electricity
LM	Local Municipality
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. The uPhongolo municipality is situated in KwaZulu-Natal province. It is in the north of the Zululand District in KwaZulu-Natal. The municipality lies adjacent to the Swaziland Border and the Mpumalanga Province Border.

1.3. Table 1below shows the licensee's customer statistics obtained from D-forms, indicating that the municipality has a total of 542 customers. Industrial customers consume 66.55% of the total electricity sales, followed by domestic customers at 18.99% and commercial customers at 14.25%. Eskom provides the municipality with statistics to enable the provision of Free Basic Electricity (FBE) to indigent customers every month.

Table 1: Customer Statistics (Data Obtained from the Latest D-forms- 2024/25 FY)

CUSTOMER STATISTICS			
Consumer classification	**Sales (MWh)**	**%MWh**	**Number of consumers**
Domestic (Conventional)	4 660	18.99%	409
Commercial (Conventional)	3 496	14.25%	91
Manufacturing/Industrial	16 327	66.55%	42
Street lighting and Own Use	50	0.20%	N/A
Totals	**24 533**	**100%**	**542**

Free Basic Electricity	-	0.00%	0

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

1.5. The uPhongolo Local Municipality implemented a 15% average price increase in the 2025/26 FY and is applying for an average price increase of 8.40% for the 2026/27 FY.

1.6. In accordance with NERSA requirements, all tariff applications must include confirmation that the proposed tariffs have been approved by the Municipal Council and have undergone customer consultation.

1.7. In accordance with NERSA requirements, all tariff applications must include confirmation that the proposed tariffs have been approved by the Municipal Council and have undergone a customer consultation process.

1.8. For this application, the municipality submitted its Council Resolution and proof of having conducted customer consultation together with its tariff application on 31 March 2026.

1.9. NERSA followed the notice and comment consultation process . The uPhongolo Local Municipality'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.

1.10. NERSA's decision was made on 30 April 2026, considering 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 municipal electricity tariffs follows the Eskom Multi-year Price Determination and Eskom Retail Tariff and Structural Adjustment decision and is undertaken annually in order to align with the municipal budgeting process contemplated in the Municipal Finance Management Act, 2003 (Act No. 56 of 2003).

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.

2.2. 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 licences and may issue licences 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 licence 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 licences 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 2025/26 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 2026/27 municipal tariff approvals.

2.8. Court-Directed Timelines

2.8.1. The timelines below are applicable in respect of the 2026/27 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; and
d) the publication of NERSA decisions by 11 May 2026.

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

a) written notice of bulk electricity tariffs to be communicated by 31 January each year;
b) municipal tariff applications to be submitted to NERSA by 20 March each year; and
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 2026/27 municipal financial year.

3. FINANCIAL AND TECHNICAL PERFORMANCE

3.1. In evaluating the financial and technical performance of uPhongolo Local Municipality, the assessment relied on the Distribution forms (D-forms) for the 2024/25 financial year 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. The uPhongolo Local Municipality's electricity business operated at a percentage surplus of 11.48% in the 2024/25 financial year, increasing from a deficit of -1.10% in the 2023/24 financial year.

3.3. Table 2 below reflects uPhongolo Local Municipality's performance indicators. The municipality's energy losses decreased to 8.77% in the 2024/25 financial year from 27.81% in the 2023/24 financial year.

Table 2: Performance Indicators

Performance Indicators: Obtained from the D-Form		
Indicators	**2023/24**	**2024/25**
Percentage Surplus (Deficit)	-1.10%	11.48%
Percentage energy Losses	27.81%	8.77%

3.4. Based on the information above, the municipality's operational and financial performance is satisfactory.

4. DETERMINATION OF UPHONGOLO LOCAL MUNICIPALITY'S TARIFFS BASED ON THE COS STUDY

4.1. The process followed in considering and approving uPhongolo Local Municipality's tariff application was supported by a revised COS study.

4.2. The uPhongolo Local Municipality utilised the COS study model developed by Sustainable Energy Africa (SEA) to determine its revenue requirements for the 2026/27 financial year and to apportion costs required to service each customer's class in a fair and equitable manner. The study follows the NERSA COS framework and utilises the latest available audited data, which is based on the 2024/25 financial year.

4.3.

4.4. below details the five steps considered in the determination of the COS study.

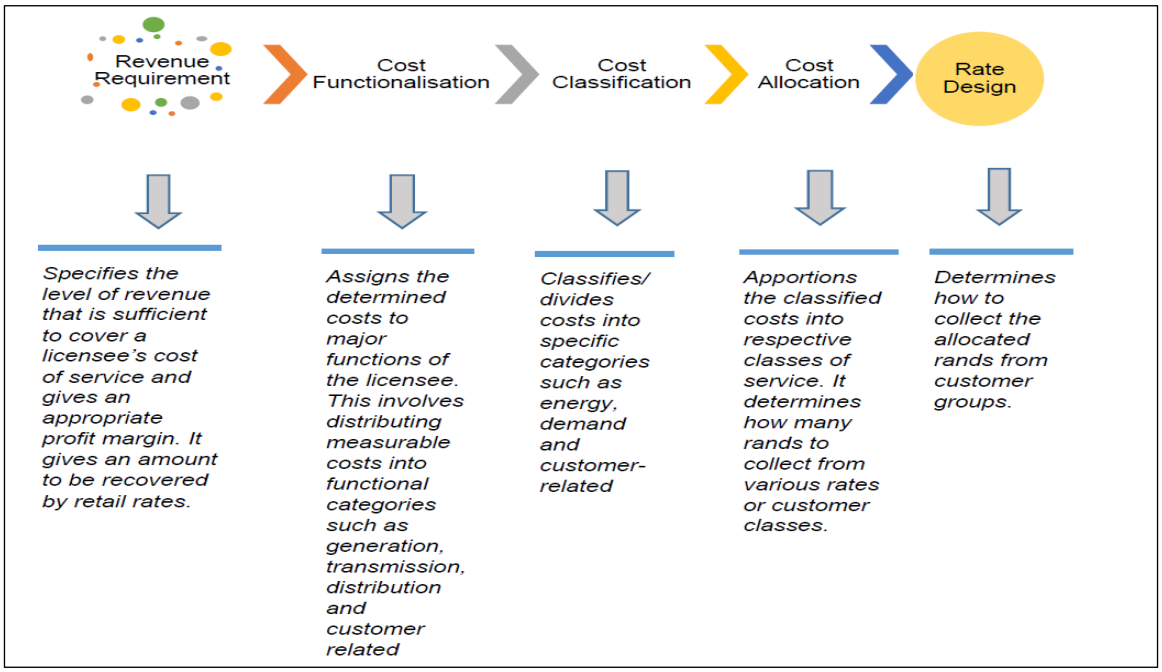


Figure 1: Five Steps of COS

4.5. The following steps are undertaken to analyse the COS study:

4.5.1. Revenue Requirement

4.5.1.1. The revenue requirement step specifies the level of revenue that is sufficient to cover a licensee's cost of service and appropriate margin. It is an indication of the amount to be recovered from the approved tariffs.

4.5.1.2. The uPhongolo Local Municipality submitted a COS report detailing revenue requirements of R89.98 million for the 2026/27 financial year. As shown in Table 3 below, purchases from Eskom account for 73% of this revenue requirement, an amount that includes an allowance for energy losses. Operational expenditure accounts for the remaining 18%.

Table 3: Revenue Requirement Components

	Total cost (R)			
Revenue Requirement components	Wires	Retail	Total	% of Total
Allowable costs	20 189 793	69 786 456	89 976 249	100%
Energy purchases from Eskom - net of cost of losses	-	57 845 409	57 845 409	64%
Energy purchases from Eskom - cost of losses	3 351 605	4 428 750	7 780 355	9%
Other energy purchases	-	-	-	0%
Capital expenditure	-	-	-	0%
Operational expenditure (incl. Depreciation)	15 012 086	1 252 076	16 264 161	18%
Other revenues	- 9 334	- 84 002	- 93 335	0%
Surplus	1 835 436	6 344 223	8 179 659	9%
Not allowable costs	-	-	-	
Cost of losses disallowed	-	-	-	
TOTAL COSTS	20 189 793	69 786 456	89 976 249	
	22%	78%		

4.5.1.3. The efficiency of costs for the 2024/25 financial year (base year) has been assessed, as this constitutes the most recent set of actual data. This assessment serves as the baseline for projecting costs for the 2026/27 financial year, applying stated assumptions to determine the revenue requirement for that period.

4.5.1.4. All expenses included in the revenue requirement have been examined to confirm that they pertain exclusively to the licensee's electricity function. Where any amounts were found to be inflated or insufficiently substantiated, adjustments have been made accordingly, as detailed below.

Bulk Purchases

4.5.1.5. From the submitted COS of uPhongolo Local Municipality, bulk purchase expenditure amounted to R57.85 million, representing 64% of total costs. The bulk purchase figure was verified against Eskom invoices for the 2024/25 financial year.

4.5.1.6. To derive the 2026/27 financial year bulk purchase estimate, the 2025/26 FY COS amount was escalated by 9.01%, consistent with the approved Eskom Retail Tariff Structural Adjustments (ERTSA).

4.5.1.7. The methodology applied by uPhongolo Local Municipality in forecasting bulk purchase costs is deemed reasonable. Accordingly, the bulk purchase expenditure has been recommended as submitted.

Operational Expenditure (OPEX)

4.5.2. The uPhongolo Local Municipality's COS projects have operational expenditures totalling R16.26 million, representing 18% of overall project costs. Table 4 below provides a breakdown of this expenditure.

Table 4: Operational Expenditure

	Total	Wires	Retail
Salaries and allowances	R 2 986 258	R 2 986 258	R -
Materials and supplies	R 5 451 846	R 5 451 846	R -
Contracted Services	R 5 935 838	R 5 935 838	R -
Current year depreciation	R 638 144	R 638 144	R -
Opex	R 1 252 076	R -	R 1 252 076
Total	**16 264 161**	**15 012 086**	**1 252 076**

4.5.3. The approach adopted by uPhongolo Local Municipality in forecasting operational expenditure is considered reasonable, and the amount has therefore been recommended as requested. Furthermore, the licensee is not incurring inefficient costs such as Notified Maximum Demand (NMD) exceedance penalties and interest incurred on Eskom-related debt.

Surplus

4.5.4. The uPhongolo Local Municipality's revenue requirement includes a surplus of R8.18 million, calculated using a surplus factor of 9% applied to operating expenditure, inclusive of bulk purchases, for both the wires and retail components of the electricity business.

4.5.5. In recommending a surplus, NERSA relied on section 15(1)(a) of the Electricity Regulation Act under the tariff principles, which specifies that the tariffs set by the Regulator: 'must enable an efficient licensee to recover the full cost of its licensed activities, including a reasonable margin or return'.

4.5.6. In applying the Act, NERSA is required to ensure that uPhongolo Local Municipality recovers efficient costs and a reasonable return, while preventing excessive compensation. The return proposed by the licensee is considered reasonable, as it falls within the established target range of 10–20%. Consequently, the requested amount has been recommended as applied for.

4.5.7. The recommended revenue requirement will be applied in the subsequent COS steps, namely Cost Functionalisation, Cost Classification, Cost Allocation, and Rate Setting. These steps have been verified and confirmed to align with the approved revenue requirement. Further details of these steps are provided below.

4.5.8. **Cost Functionalisation**

4.5.8.1. The uPhongolo Local Municipality has categorised its revenue requirement of R57.85 million into two primary functional components, namely the wires business (22%) and the retail business (78%), in accordance with the NERSA COS framework, as illustrated in Figure 2 below. Upon verification, the allocation of costs to these functional components is found to be consistent with the stated revenue requirement.

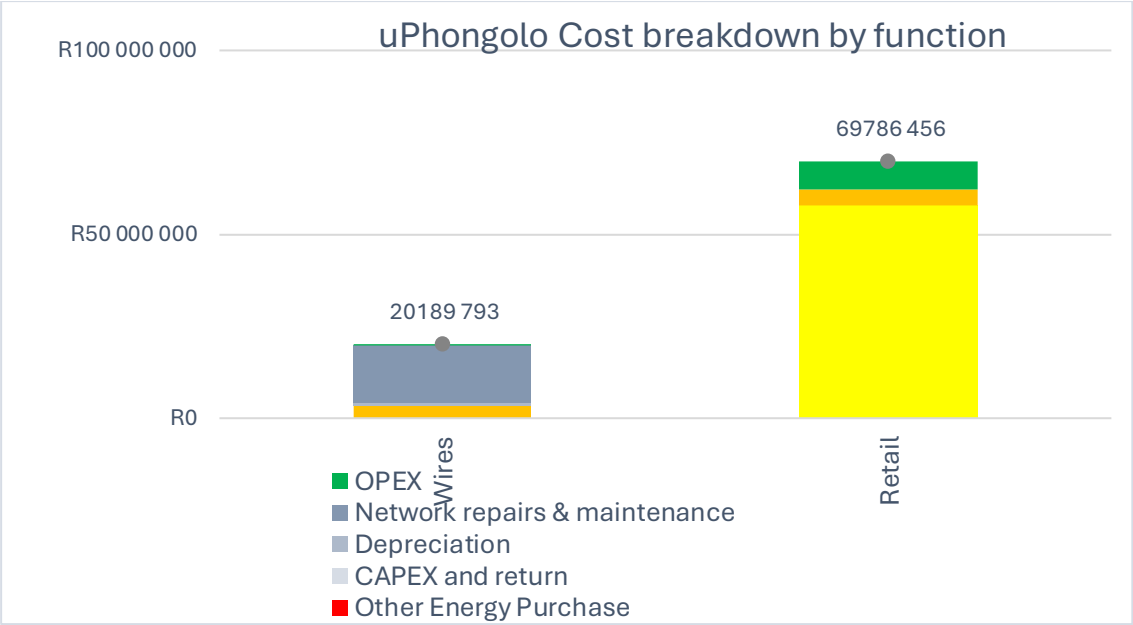


Figure 2: Costs Breakdown by Functions

4.5.8.2. These costs, upon verification, are consistent with the approved revenue requirements. Network repairs and maintenance constitute the predominant cost drivers within the wires business, while energy purchases represent the primary cost driver within the retail business.

4.5.9. Cost Classification

4.5.9.1. The uPhongolo Local Municipality classified its costs into energy, demand, and customer-related cost components, in accordance with the NERSA COS framework. The costs align with revenue requirements and cost functionalisation upon verification.

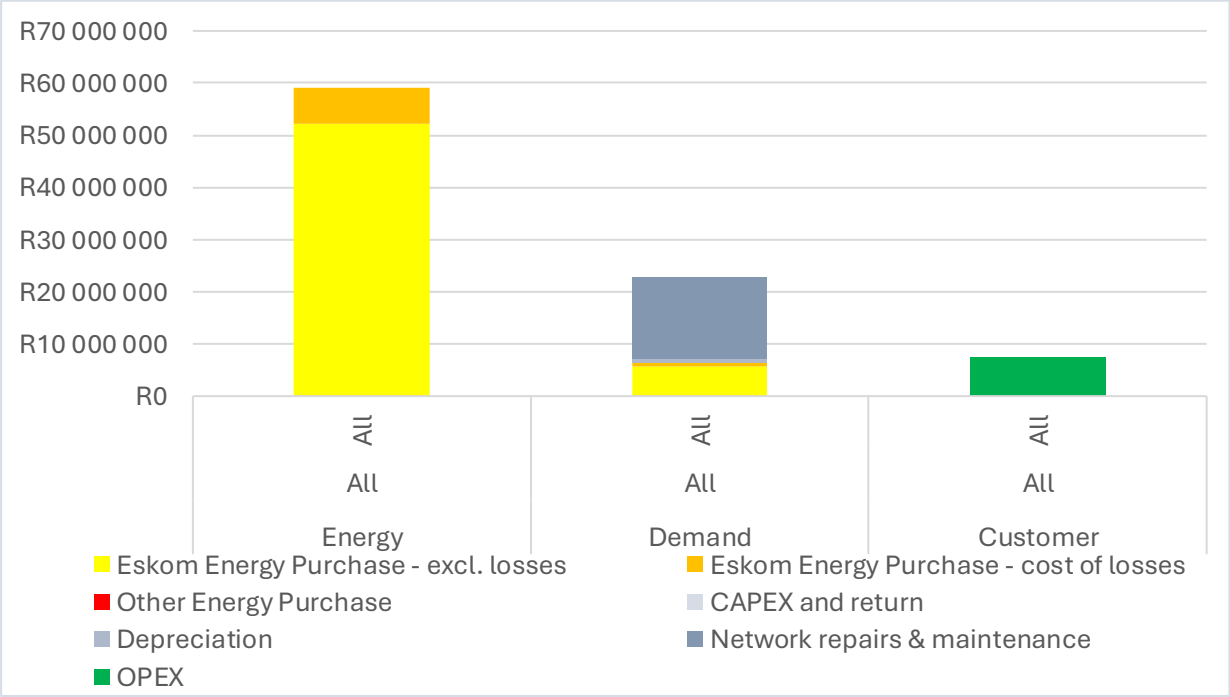


Figure 3: Cost Breakdown by Cost Structure Classification

4.5.9.2. Energy purchases constitute energy-driven costs, with the highest expenditure incurred during the summer period under the standard time-of-use structure, largely due to the longer duration of the summer season. Demand-driven costs are similarly concentrated in the summer period. Customer-driven costs are primarily associated with 'Other OPEX', which includes expenses related to the provision of electricity distribution services to customers.

4.5.10. Cost Allocation

4.5.10.1. In this step, the licensee's revenue requirement is allocated across customer categories in accordance with the NERSA COS framework. Upon verification, the allocation is found to be consistent with the stated revenue requirement and aligned with the principles of cost allocation. Most of the costs are allocated to domestic customers (53%), followed by commercial customers (33%).

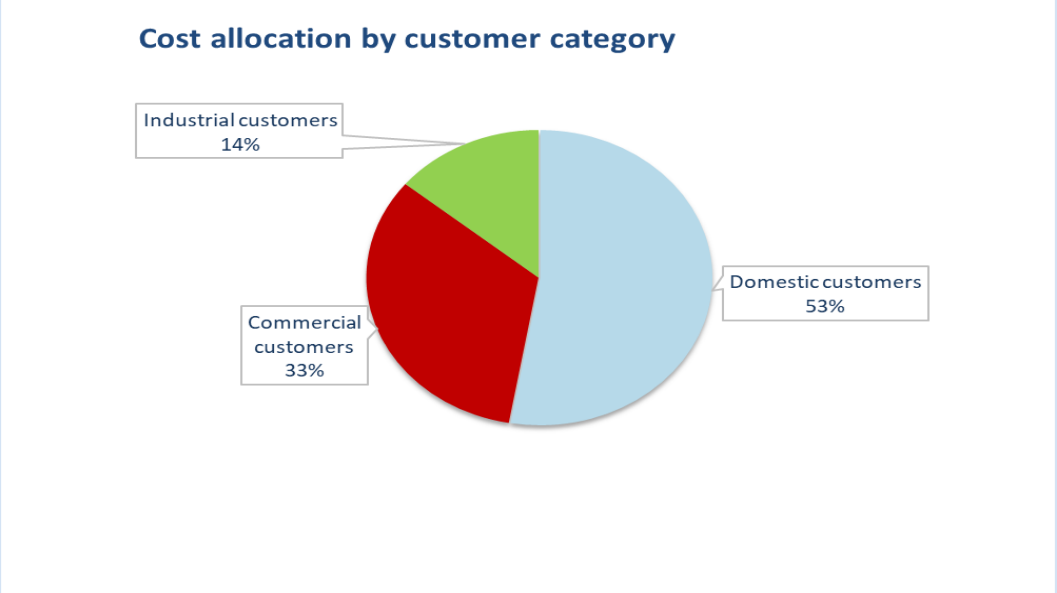


Figure 4: Costs Allocated

4.5.11. Rate Design

4.5.11.1. Figure 5 below reflects the outcome of the COS study, indicating that the licensee is over recovering from industrial and commercial customers while domestic, vacant land and sold to other municipal departments are being subsidised.

4.5.11.2. To achieve full cost reflectivity, the municipality would be required to implement differentiated tariff adjustments across customer categories as highlighted above.

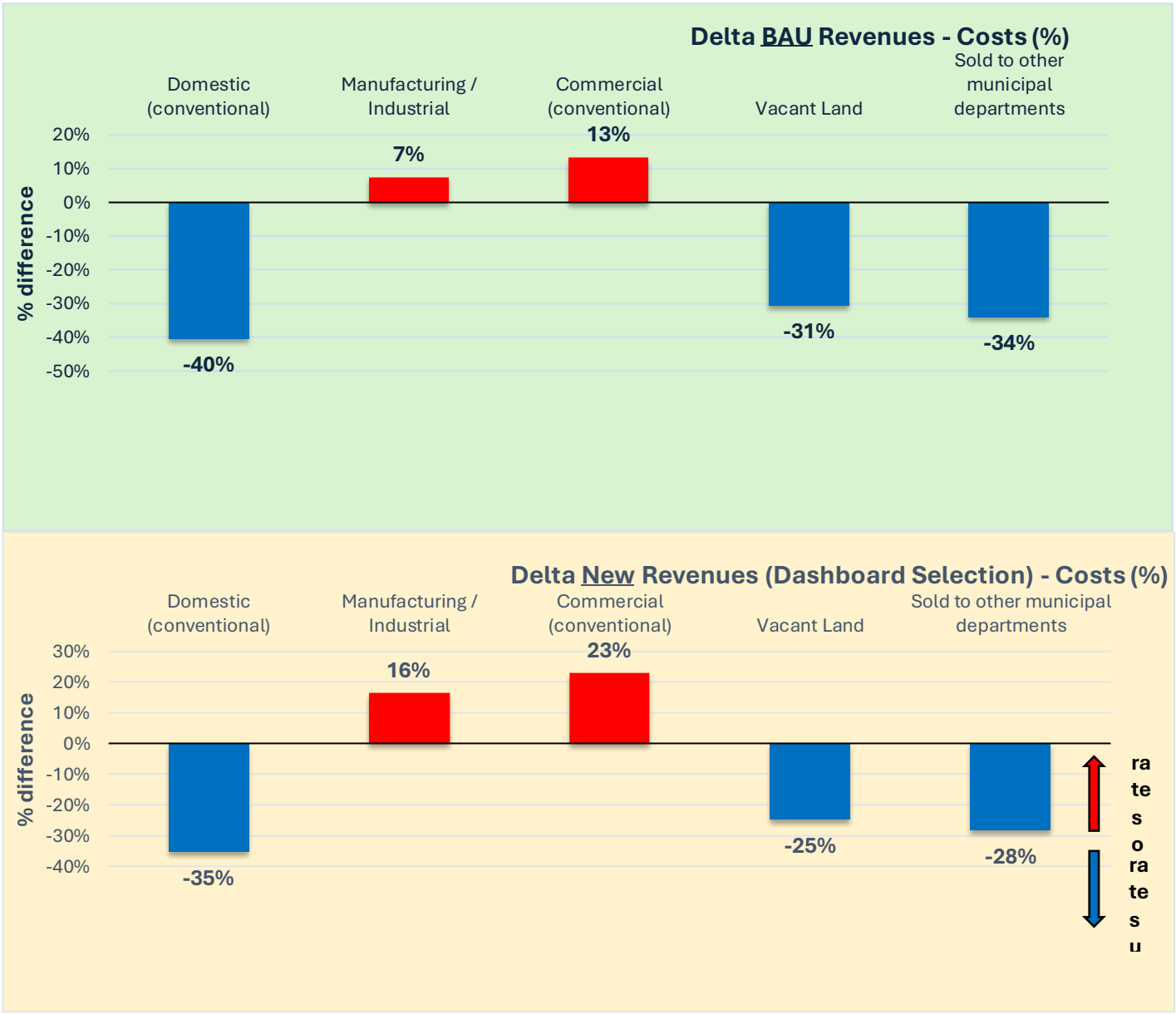


Figure 5: Cross- subsidies

5. CONCLUSION ON THE COS STUDY

5.1. The COS outcome indicates that achieving full cost reflectivity would require a tariff increase of approximately 8.4%, as shown in Figure 6 below.

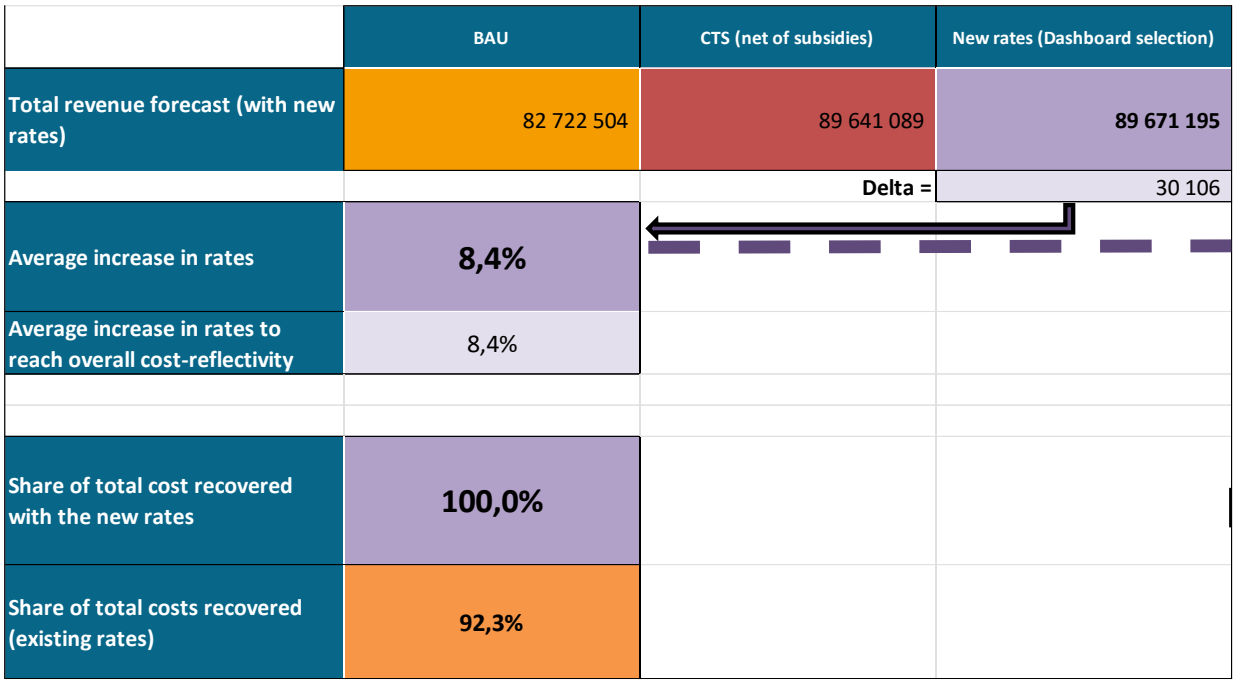


Figure 6: Rate Design

5.2. The licensee may take into account its ability to meet financial obligations, including payments to Eskom, as well as the broader affordability constraints faced by customers, in determining the appropriate trajectory for tariff adjustments.

5.3. This approach is intended and will ensure safeguarding of the municipality's revenue base and support its financial sustainability, in line with applicable legislative requirements.

5.4. The COS study is based on forecast assumptions and, as such, does not guarantee that the projected outcomes will materialise. Accordingly, the licensee retains the discretion to review the results and determine its own revenue requirements to ensure financial sustainability. In this regard, the municipality will be required to submit a report accounting for all costs that remain unverified.

5.5. The COS study results indicate a required increase of 8.40% to reach cost reflectivity, as illustrated in Figure 4 below. Based on the available information, the municipality is expected to remain financially sustainable under the proposed tariff increase of 8.40% as per the proposed average increase in rates.

5.6. In its evaluation and assessment of the tariff applications, the following principles are applied:

5.6.1. Costs were assessed for reasonableness and accuracy, noting that certain cost items were considered excessive and insufficiently substantiated by the licensees.

5.6.2. The costs will be subject to a detailed audit and independent verification process, to be undertaken under the direction of NERSA at a later stage.

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This page is part of the decision's record of public participation,
objections or comments, which names members of the public.
We do not republish it.

The whole decision is on NERSA's website:
https://www.nersa.org.za/file/9197/uPhongoloMunicipalityTariffAnalysis2026-27.pdf

10. CONCLUSION

10.1. From a conspectus of the facts and evidence presented to the REC, it is appropriate to approve uPhongolo Local Municipality's tariff application for the 2026/27 financial year.

End.