NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

Decision and Reasons for Decision (RfD)

In the matter regarding the

Application for Consequential Amendments to the 2026/27 Electricity Tariff Structure of the Nelson Mandela Bay Metropolitan Municipality

By

Nelson Mandela Bay Metropolitan Municipality

THE DECISION

At its meeting held on 7 September 2026, the Regulator Executive Committee (REC) considered the Nelson Mandela Bay Metropolitan Municipality's application for consequential amendments to the 2026/27 electricity tariff structure.

Based on the facts and evidence presented, the REC approved the amendments to the domestic Inclining Block Tariff (IBT) for the 2026/27 financial year, as set out in the tariff analysis section of this reason for decision document. Having considered the information submitted and the analysis conducted, the REC decided:

1. to approve the consequential amendments to the 2026/27 domestic electricity tariff structure pursuant to the High Court Order dated 4 August 2026 (with the exclusion of a basic charge on the prepaid customer category);

2. that the municipality implement the amended tariff structure retrospectively with effect from 1 July 2026;

3. that the municipality allocate credits or additional prepaid units, where applicable, to all affected domestic tariff consumers; and

4. that the amendment be limited to the affected domestic tariff categories that were moved from IBT to flat-rate pricing for the 2026/27 financial year. The domestic time-of-use, commercial, industrial, wheeling, small-scale embedded generation and all other unaffected tariff categories shall remain unchanged, as previously approved by NERSA on 11 May 2026.

1. INTRODUCTION

1.1. The Nelson Mandela Bay Metropolitan Municipality (NMBM) is located in the Eastern Cape. NMBM implemented a 10.95% average price increase in the 2026/27 financial year (FY) and changed the tariff structure applicable to its domestic tariff category from the Inclining Block Tariff (IBT) structure to a flat-rate structure.

1.2. NERSA approved NMBM's 2026/27 electricity tariffs on 11 May 2026. The original reasons for decision (RFD) document is attached hereto as Annexure 2. Subsequent to NERSA's tariff approval and NMBM's implementation of the approved tariffs, the Democratic Alliance (DA) approached the Gqeberha High Court and sought an interdict compelling NMBM to reinstate the IBT structure for affected domestic electricity customers for FY2026/27.

1.3. In its order dated 4 August 2026 (attached hereto as Annexure 1), the High Court directed NMBM to reinstate the IBT structure applicable to affected domestic consumers during FY2025/26, obtain NERSA's approval for the consequential amendments to the 2026/27 tariff structure, implement the revised tariff structure retrospectively with effect from 1 July 2026 and allocate credits to affected consumers, where applicable.

1.4. The consequential amendment is limited to the affected domestic tariff categories that were changed from an IBT structure to flat-rate pricing for FY2026/27. The domestic Time-of-Use (TOU), commercial, industrial, wheeling, small-scale embedded generation (SSEG) and all other unaffected tariff categories remain unchanged.

1.5. Approximately 388,148 domestic customers fall within the affected tariff categories. The reinstated IBT structure is progressive, with lower levels of consumption charged at lower rates, and higher levels of consumption progressively charged at higher rates. The principal customer benefit of the reinstated structure is therefore expected to accrue to low- and moderate-consumption households.

1.6. For purposes of the consequential amendment, the approved 2025/26 IBT structure, including the existing consumption block thresholds, is retained as the base tariff structure. The approved 2026/27 annual electricity tariff increase of 10.95% is then applied uniformly to the approved 2025/26 IBT rates. This approach preserves the IBT structure directed by the Court while incorporating the approved 2026/27 annual tariff increase into the revised tariff rates.

1.7. The municipality proposes the introduction of a basic charge to the 2025/26 IBT structure applicable to the non-indigent prepaid customer category. It should be

noted that the basic charge did not form part of the 2025/26 IBT structure. The proposed change has attracted significant opposition from stakeholders, as evidenced by the substantial number of comments received by NERSA through the public participation process. NERSA's assessment and non-support of the proposed basic charge, together with its consideration of the stakeholder comments received, are set out in the sections that follow.

Customer Statistics

1.8. NMBM's customer base is predominantly made up of manufacturing/industrial customers, which account for 59,33% of the total electricity sales. The Municipality provides qualifying indigent customers with 75kWh of Free Basic Electricity (FBE) per month. The municipality further reports that it maintains an indigent register. Further details relating to NMBM's customer statistics are presented in Table 1 below.

Table 1: Customer statistics (data obtained from the latest D-forms – FY2024/25)

CONSUMER STATISTICS (OBTAINED FROM 2024-2025 DISTRIBUTION FORMS)			
Consumer Classification	Sales (KWh)	%KWh	Number of Consumers
Domestic (Prepaid)	**376 883 996**	**14,80%**	**367 601**
Domestic (Conventional)	**126 702 413**	**4,98%**	**20 547**
Manufacturing / Industrial	**1 510 338 081**	**59,33%**	**332**
Commercial (Prepaid)	**41 472 519**	**1,63%**	**8 964**
Commercial (Conventional)	**330 501 183**	**12,98%**	**6 239**
Street Lighting	**73 664 585**	**2,89%**	
Municipal Consumption	**86 204 794**	**3,39%**	**680**
TOTAL SALES	2 545 767 571	100%	404 363
Free Basic Electricity (FBE)	18 248 400	3,62%	30 414

1.9. NERSA received the court order on 6 August 2026 and NMBM's tariff application, together with its Cost of Supply (COS) study, on 11 August 2026.

1.10. NERSA followed the prescribed notice and comment consultation process. NERSA published NMBM's tariff application on its website on 13 August 2026, as well as on social media platforms and in the following Gqeberha local newspapers: *The Herald* (English), *Die Burger* (Afrikaans) and *Isolezwe lesiXhosa* (isiXhosa), to solicit written comments from affected parties.

1.11. The closing date for stakeholder comments was 2 September 2026.

1.12. NERSA's decision was made on 7 September 2026, after considering the written comments received from the affected stakeholders and the analysis undertaken 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 NERSA and must be exercised in accordance with the applicable legislative framework, national policy directives and, where necessary, 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, ('the 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. The decision is undertaken annually 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 municipal tariff approval process.

2.1.4. This section provides the legal and policy context within which NERSA 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, NERSA, as the decision-making body, must regulate the electricity industry and execute the functions set out in the ERA. NERSA's electricity regulatory mandate 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 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 NERSA 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 an administrative action as defined in section 1 of the PAJA. Accordingly, NERSA 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 NERSA 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, NERSA 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 COS methodologies have historically not been consistently applied across the electricity distribution industry.

2.6.3. Policy position 23 requires electricity distributors to undertake COS 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 NERSA-approved methodology and must accompany tariff structure applications submitted to NERSA.

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 timeous 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 seeking to vary the timelines that had been set by the Court on 4 December 2025, in light of practical difficulties arising in relation to NERSA's compliance with the court order. The Court, having heard NERSA's application, granted the variation application regarding the fixed deadlines for the 2026/27 municipal tariff approvals.

2.7.5. As stated above, NERSA approved NMBM's electricity tariffs for FY2026/27 on 11 May 2026. The approval included a change in the tariff structure, in which NMBM abolished the IBT and replaced it with a flat-rate domestic tariff.

2.7.6. On 20 July 2026, NERSA received the Notice of Motion Application issued in the High Court of South Africa, Eastern Cape Division, Gqeberha, with case number 2026-170819 brought by the Democratic Party (DA) and Retief Odendaal, seeking an interim interdict against NMBM to implement the electricity tariffs approved by NERSA for domestic customers for FY2026/27, pending the determination of an application to review and set aside NERSA's decision to approve the Municipality's electricity tariff for FY2026/27.

2.7.7. On 6 August 2026, the Court made the following orders:

2.7.7.1 Part A must be heard as a matter of urgency and the departure from the Uniform Rules of Court as to forms and service be condoned accordingly.

2.7.7.2 The Municipality must:

a) incorporate the electricity tariff applicable to domestic consumers for the 2026/27 financial year, which is the Inclining Block Tariff that had been applicable for such consumers during the 2025/26 financial year;

b) within thirty (30) days of the date of the order (or such extended period as may be approved by the Court on application by the Municipality), obtain the approval of NERSA of such consequential amendment to the municipality's tariff structure as may be necessary to accommodate the directive in paragraph (a) above;

c) implement the directive in paragraph (a) above by no later than the date in paragraph (b) above, with retrospective application from 1 July 2026; and

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receive the first 75 kWh of monthly consumption as FBE. The 75 kWh FBE allocation must therefore be taken into account when determining the actual final bill payable by qualifying customers and when assessing the overall customer impact of the reinstated IBT structure.

Non-ATTP domestic prepaid

5.4. Table 4 below shows the estimated customer bill impact for non-indigent prepaid users under the flat-rate structure, the reinstated IBT structure without basic charge and the IBT structure with basic charge. The analysis models customer bills at different monthly consumption levels, ranging from 100 kWh to 1 000 kWh and compares the bills under the previously approved and implemented flat-rate tariff structure with those under the proposed/reinstated IBT structure, with and without the basic charge.

Table 4: Non-ATTP prepaid customer revenue impact results at different volumes

Average consumption (kWh)	Flat Rate Revenue Position	Reinstated IBT Without Basic charge	Reinstated IBT with Basic charge
100,00	471,60	335,93	415,53
200,00	863,60	671,86	751,46
300,00	1 255,60	1 007,79	1 087,39
400,00	1 647,60	1 406,10	1 485,70
500,00	2 039,60	1 804,41	1 884,01
600,00	2 431,60	2 245,62	2 325,22
700,00	2 823,60	2 686,83	2 766,43
800,00	3 215,60	3 128,04	3 207,64
900,00	3 607,60	3 568,25	3 648,85
1 000,00	3 999,60	4 010,46	4 090,06

5.5. The analysis indicates that the introduction of a basic charge to the IBT structure for domestic prepaid customers would result in higher monthly bills for lower-consuming customers. For example, at a monthly consumption level of 100 kWh, a non-indigent prepaid customer would pay R471,60 under the existing tariff structure, compared to R355,93 under the reinstated IBT structure without a basic charge and R415,53 under the IBT structure with a basic charge. The customer bill at this consumption level would be 24% higher with the basic charge. This demonstrates that customers are better off under the IBT structure without a basic charge. The analysis further indicates that this trend persists across all the consumption levels, with the impact of the basic charge becoming progressively less significant at higher consumption levels, particularly from approximately 900 kWh per month.

5.6. The IBT structure without a basic charge is consistent with the Court order, which requires the reinstatement of the IBT structure, subject to adjustments informed by the COS results. The introduction of a basic charge to prepaid customers would, however, alter the structure and customer impact of the reinstated IBT tariff. This is of particular concern for low-consumption domestic customers, as the basic

charge represents a fixed cost that is payable irrespective of the volume of electricity consumed.

5.7. Furthermore, the progressive nature of the IBT structure is intended to ensure that customers who consume higher quantities of electricity pay progressively higher rates as their consumption increases, while providing relatively lower charges for customers with lower consumption. The introduction of a basic charge would place an additional financial burden on lower-consuming customers and could undermine the affordability benefits associated with the IBT structure.

5.8. NERSA does not support the introduction of a basic charge for domestic prepaid customers for the following reasons:

a) The introduction of a basic charge to the IBT structure would increase the monthly bill of domestic prepaid customers, with a more pronounced impact on lower-consuming customers. This is considered inconsistent with the progressive nature of the IBT structure, which is intended to provide relatively lower charges to customers with lower levels of consumption.
b) The 2025/26 IBT structure applicable to domestic prepaid customers did not include a basic charge. The introduction of a basic charge therefore constitutes a change to the existing IBT structure. It is not considered consistent with the reinstatement of the IBT structure contemplated by the court order.
c) NERSA received significant objections from stakeholders regarding the proposed introduction of the basic charge. The concerns raised predominantly relate to the affordability and customer impact of the proposed charge, particularly on lower-consuming domestic customers. NERSA has considered these concerns together with its own assessment of the impact of the proposed tariff structure.

Non-ATTP credit metered customers

5.9. Table 5 below shows customer impact for non-indigent credit metered users modelled at different consumption levels ranging from 100 kWh to 1 000 kWh and shows the bill variance and benefit analysis between the implemented and the proposed tariff structures.

Table 5: Non-ATTP credit customer revenue impact results at different volumes

Average consumption (kWh)	Flat-Rate Position	Reistated IBT	Approx. Variance	% Variance
100,00	R471,60	R574,73	R103,13	21,87%
200,00	R863,60	R910,66	R47,06	5,45%
300,00	R1 255,60	R1 277,78	R22,18	1,77%
400,00	R1 647,60	R1 676,09	R28,49	1,73%
500,00	R2 039,60	R2 074,40	R34,80	1,71%
600,00	R2 431,60	R2 515,61	R84,01	3,45%
700,00	R2 823,60	R2 956,82	R133,22	4,72%
800,00	R3 215,60	R3 398,03	R182,43	5,67%
900,00	R3 607,60	R3 839,24	R231,64	6,42%
1 000,00	R3 999,60	R4 280,45	R280,85	7,02%

5.10. The analysis shows that, for this customer category, there will be no savings realised by customers. At a consumption level of 100 kWh, the customer will pay R103,13 more than they previously paid, while at 200 kWh, the customer will pay R47,06 more. Customers consuming at 300 kWh will realise the lowest payment increase of R22, while customers consuming from 700 kWh will start paying more, with variances constantly increasing under the new IBT structure.

5.11. This tariff category shows that low-consuming customers will not benefit from the new IBT structure compared with indigent and prepaid customers.

Customers affected

5.12. The table below shows the number of affected domestic customers. The largest affected group is non-ATTP domestic prepaid customers. The amendment does not change tariffs for customer categories outside the scope of the Court Order

Table 6: Domestic customer categories affected

Customer category	Number of customers
ATTP Domestic Prepaid & Credit	30 414
Non-ATTP Domestic Prepaid	337 187
Non-ATTP Domestic Credit	20 547
Total	388 148

Retrospective customer adjustments

5.13. The revised tariff structure must be applied retrospectively from 1 July 2026. NMBM should therefore recalculate affected transactions using actual customer data.

5.14. For prepaid customers, units actually issued should be compared with the units that should have been issued under IBT.

5.15. For conventionally billed customers, the amount actually billed should be compared with the amount that should have been billed under IBT.

5.16. Where an over-recovery is confirmed, the appropriate credit, adjustment or additional prepaid units must be processed.

5.17. ATTP recalculations must incorporate the correct FBE treatment.

ATTP Domestic Prepaid & Credit (Scale T01) (Voltage Level: 230 Volts 80Amps) Indigent Domestic Customers with Single-Phase Conventional Prepaid Meters Number of Customers: 30 414				
Tariff block	**2025/26 Approved IBT (c/kWh)**	**% Increase Proposed for 2026/27**	**2026/27 Rate After 10.95% (c/kWh)**	**Previously NERSA-Approved Rate for 2026/27**
Block 1 (0–75 kWh)	193.10	10.95%	214.24	FBE: 3.92 R/kWh (392 c/kWh)
Block 2 (76–300 kWh)	211.99	10.95%	235.20	Flat Rate: 3.56 R/kWh (356 c/kWh)
Block 3 (301–500 kWh)	352.18	10.95%	390.74	Flat Rate: 3.56 R/kWh (356 c/kWh)
Block 4 (>500 kWh)	397.21	10.95%	440.70	Flat Rate: 3.56 R/kWh (356 c/kWh)

Non-ATTP Domestic Prepaid (Scale T01) (Voltage Level: 230 Volts 80 Amps & 400 Volts 100 Amps) Domestic Customers with Single-Phase and Three-Phase Conventional Credit Meters Number of Customers: 337 187				
Tariff block	**2025/26 Approved IBT (c/kWh)**	**% Increase Proposed for 2026/27**	**2026/27 Rate After 10.95% (c/kWh)**	**Previously NERSA-Approved Rate for 2026/27**
Basic Charge (R/month)	None	New R79.60/month	0	R79.60/month
Block 1 (0–300 kWh)	302.78	10.95%	335.93	Flat rate: 3.92 R/kWh (392 c/kWh)
Block 2 (301–500 kWh)	359.00	10.95%	398.31	—
Block 3 (>500 kWh)	397.67	10.95%	441.21	—

Non-ATTP Domestic Credit (Scale 31 & 36) (Voltage Level: 230 Volts 80 Amps & 400 Volts 100 Amps) Domestic Customers with Single-Phase & Three-Phase Conventional Credit Meters Number of Customers: 20 547				
Tariff component	**2025/26 Approved IBT**	**% Increase Proposed for 2026/27**	**2026/27 Rate After 10.95%**	**Previously NERSA-Approved Rate for 2026/27**
Basic Charge (R/month)	R71.74/month	10.95%	R79.60/month	R79.60/month
Block 1 (0–250 kWh)	302.78 c/kWh	10.95%	335.93 c/kWh	Flat rate: 3.92 R/kWh (392 c/kWh)
Block 2 (251–500 kWh)	359.00 c/kWh	10.95%	398.31 c/kWh	—
Block 3 (>500 kWh)	397.67 c/kWh	10.95%	441.21 c/kWh	—

6. CONFIDENTIALITY

6.1. None.

7. CONCLUSION

7.1. Having considered the NMBM's application, the supporting information, analysis and the written submissions received from stakeholders, the applicable legal and regulatory framework and the High Court order dated 4 August 2026, NERSA approves the consequential amendments to NMBM's electricity tariff structure, as set out in this RFD document.

End.