

NERSA Rules for Electricity Trading

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The National Energy Regulator of South Africa
526 Madiba Street
Arcadia, Pretoria
0007

Contact Details:

Tel: +27 (0)12 401 4600

Fax: +27 (0)12 401 4700

www.nersa.org.za

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1. INTRODUCTION AND BACKGROUND

The South African Electricity Distribution Industry has always consisted of Eskom and municipalities licensed by the National Energy Regulator of South Africa (NERSA), until NERSA recently issued several trading licences to electricity traders who had signed Power Purchase Agreements (PPAs) with customers for specific contracted energy supply. This was done by NERSA in line with the Electricity Regulation Act, 2006 (Act No. 4 of 2006) ('ERA') and the Electricity Regulation Amendment Act, 2024 (Act No. 38 of 2024), which mandates NERSA to issue separate licences for the operation of distribution facilities and for trading, as stated in section 13(3).

These traders introduce competition to Eskom and municipalities that already have Supply Agreements with customers connected to the distribution facility they operate or that fall within their area of supply. The customers are now afforded an opportunity to choose their supplier in line with the objectives outlined in section 2(f) of the ERA, namely to 'promote competitiveness and customer and end user choice'.

Even though the Eskom and municipality licences are still bundled and have not yet been separated into distribution facility operating and trading licences, it is assumed that this will be done by NERSA soon. Therefore, in these Rules, Eskom and the municipalities will be treated as if they have both operation and trading licences.

The Rules further recognise that electricity traders have no designated areas of supply, and supply customers anywhere within the borders of South Africa.

The Rules recognise that there will be two markets in South Africa, i.e. a South African Wholesale Electricity Market (under development) and Retail Market or Bilateral Market, which is the focus of these Rules. The participants within the Bilateral Market are traders and customers buying and selling energy through a distribution facility operator's network. Therefore, these Rules must be read in conjunction with the Wholesale Market Rules and/or Code.

These Rules recognise that Eskom and licensed municipalities' tariffs are currently regulated and still unbundled, but the other traders' tariffs and energy prices are unregulated and are subject to competitive pricing. NERSA is working towards tariff unbundling to ensure that Eskom and licensed municipalities can conduct electricity trading activities at prices that can compete fairly.

These Rules for Electricity Trading were developed pursuant to section 35 of the ERA, read in conjunction with sections 4(a)(ii) and 4(a)(iv) of the same Act. NERSA is vested with the statutory authority to formulate rules governing the electricity Retail Market or the Bilateral Market where traders, distribution facility operators and their customers are interacting.

These Trading Rules are formulated in line with legislation, without duplication or contradiction, with regard to the following:

- a) ERA and ERAA establishes electricity trading as a distinct, licensable activity, separate from distribution, transmission and generation
- b) Regulatory Rules on Network Charges for Third-party Wheeling of Energy, 2025

- c) The Electricity Pricing Policy (EPP) and NERSA Electricity Pricing Rules
- d) NERSA Cost of Supply Framework (no long Guideline and Benchmarks) and Multi-Year Price Determinations
- e) The South African Wholesale Electricity Market (SAWEM) Market Code (once approved by NERSA)
- f) Others still to be developed and approved by NERSA.

The Rules contain the requirements to compete for, lure, switch and exchange end-user customers within licensed areas of supply, including fair electricity wheeling practices. The Rules also outlines proportional rights and obligations for Traders seeking network access and Distributor Facility Operators providing network access. The Rules shall apply to all electricity trading licensees and anyone who partakes or intends to partake in the electricity Retail Market or Bilateral Market.

2. DEFINITIONS

Any words not defined in these Rules shall have the meanings assigned to them in both the Electricity Regulation Act, 2006 (Act No. 4 of 2006) ('ERA') and Electricity Regulation Amendment Act, 2024 (Act No. 38 of 2024) ('ERAA') and the Codes approved by NERSA. In the event of conflicting definitions, the definitions contained in the ERAA shall take precedence:

Act	means the Electricity Regulation Act, 2006 (Act No. 4 of 2006).
Codes	mean the South African Grid Code, the Distribution Code, or any other code approved by NERSA, as may be applicable.
Customer	means a person who purchases electricity or a service relating to the supply of electricity.
Default Retailer	means a Trader that is required by NERSA to supply electricity to Customers in a specific jurisdiction.
Direct Supply Agreement	means an agreement for the sale of electricity between a generation licensee or registrant or trader, acting in its capacity as such, and a customer, whether such electricity is supplied directly or through a transmission power system or a distribution power system, provided that the customer is not a transmitter, distributor or system operator or trader.
Distributor	means a legal entity that owns or operates/distributes electricity through a distribution system.
Electricity Supply Agreement	means the agreement between a load and a licensee for the connection to and/or use of the network, including any purchase of electricity energy from the licensee and capacity associated with the delivery of energy.
Electricity Pricing Policy	means South African Electricity Supply Industry: Electricity Pricing Policy, dated 12 December 2008, including subsequent amendments thereto.
Eskom	means Eskom Holdings SOC Ltd, Reg. No.2002/015527/30, a state-owned company incorporated in terms of the Eskom Conversion Act, 2001 (Act No. 13 of 2001).

Licensee	means a legal entity licensed by NERSA in terms of the ERA to provide electricity distribution and/or trading services. It refers to the holder of the licence granted or deemed to have been granted by NERSA.
Meter Data	means information collected from a meter regarding the quantity of energy used, the revenue due by customer and the meter installation.
Market Code	means the market code developed by the Market Operator in term of section 34B(3)(b) of the Act, as amended from time to time.
National Energy Regulator of South Africa (NERSA)	means the regulatory authority established in terms of the National Energy Regulator Act, 2004 (Act No. 40 of 2004), or its legal successor.
Network	means the electrical infrastructure over which electrical energy is transported from the source to the point of consumption, either a transmission power system or distribution power system.
Network Service Provider or NSP	means a legal entity that is licensed to provide network services through ownership and maintenance.
Power Purchase Agreement or PPA	means an agreement between a generator and a buyer for the sale and purchase of energy.
Regulator (NERSA)	means the National Energy Regulator of South Africa, being a regulatory authority established in terms of section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004), or its successor in title.
Retail Market	means the commercial space or channel where goods and services (i.e. electricity and electricity services) are sold directly to individual consumers for their personal use, often in small quantities.
Rules	means these Trading Rules, made by the NERSA in terms of sections 35(1) and (3) of the Act.
South African Wholesale Electricity Market or SAWEM	means the South African Wholesale Electricity Market, established in accordance with section 34B(3) of the Act.

Surcharges	means a charge in excess of the municipal cost of supply that a municipality may impose on fees for a municipal service provided by or on behalf of a municipality, in terms of section 229(1)(a) of the Constitution of the Republic of South Africa, 1996 and the Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
Third-party wheeling	means the conveyance of Wheeled Energy and the contractual and financial arrangements associated.
Tariff	means a charge to a customer or end user in respect of a licensed activity or registered activity, other than a surcharge, tax, levy or duty imposed by a municipality in terms of section 229 of the Constitution of the Republic of South Africa, 1996. A combination of monthly charges, each at a particular rate, that are usually escalated annually and are applied to recover the costs of measured quantities, such as consumption and capacity, and the costs of unmeasured quantities, such as customer service and administration.
Top-Up	means the supply of additional electricity to a customer whose demand exceeds the volume of electricity contracted to be supplied to it by one or more Traders.
Trader	means a legal entity licensed or registered to engage in the buying and selling of electricity as a commercial activity
Trading	means the wholesale or retail buying and selling of electricity, and 'trade' has a corresponding meaning.
Trading Licence	means a licence granted by NERSA to trade in electricity in terms of the Electricity Regulation Act, 2006 (Act No. 4 of 2006).
Wheeled Energy	means the electrical energy (kWh) which is sold pursuant to an agreement and conveyed through an NSP's Network.
Wheeling Rules	means the Regulatory Rules on Network Charges for Third Party Wheeling of Energy, 2025, issued by the NERSA in terms of section 35 of the Act.
Wholesale Market	means a business model and a type of market where goods (electricity) are sold in large quantities, or in bulk, at a discount price directly to other businesses, such as retailers or industries, rather than to individual consumers.

3. ACRONYMS AND ABBREVIATIONS

ERA	Electricity Regulation Act, 2006 (Act No. 4 of 2006)
ERAA	Electricity Regulation Amendment Act, 2024 (Act No. 38 of 2024)
ESI	Electricity Supply Industry
NERA	National Energy Regulator Act, 2004 (Act No. 40 of 2004)
NERSA	National Energy Regulator of South Africa
NSP	Network Service Provider
POPIA	Protection of Personal Information Act, 2013 (Act No. 4 of 2013)
PPA	Power Purchase Agreement
SAWEM	South African Wholesale Electricity Market

4. NERSA MANDATE

- 4.1 NERSA was established in terms of section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) ('NERA') to undertake the functions set out in section 4 of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) ('ERA').
- 4.2 Section 4(a)(iv) of the ERA mandates NERSA to develop rules aimed at giving effect to national government electricity policy. This general mandate on the specific policy requires the evaluation of such policy to ensure that it is aligned with the specificity provided in the policy to avoid expanding the policy or being at variance with the policy.
- 4.3 Rules, once developed and gazetted, are binding on all licensees. In contrast, section 14 of the ERA is only binding on such licensees for which a condition has been made applicable, while the rules are a subordinate/delegated legislation that are generally applicable. The requirement of making the rules avoid regulatory inefficiency despite the law being clear on the prohibitions against any licensee and for NERSA not being derelict to the requirement of the law.
- 4.4 The objective of the NERA is, among others, to ensure the efficient, effective, sustainable and orderly development and operation of electricity supply infrastructure within South Africa.
- 4.5 The further objective necessitating the development of these rules is found in section 2(a), (b) and (f) of the ERA, which provides guidance in terms of the regulatory achievements expected. When these rules are made universally applicable, deviations can be easily identified and enforcement speedily effected.
- 4.6 For the proposed rules to have an external binding legal effect, section 35(1) of the ERA requires that a notice must be published in the Gazette. This will ensure the completeness of the process of the development of rules as a delegated function, which forms part of the statutory framework administered by NERSA.

5. OBJECTS OF THESE RULES

The objects of these Rules are:

- 5.1 To facilitate customer and end user choice in relation to the purchase of electricity and services relating to the supply of electricity.
- 5.2 To provide clarity and certainty as to the respective rights and obligations of generators, traders, NSPs, and customers, in relation to trading activities.
- 5.3 To ensure the provision by NSPs of non-discriminatory access to the Network, to enable trading.
- 5.4 To achieve functional and accounting separation between the trading activities and Network operations of NSPs which also trade.
- 5.5 To facilitate a diverse range of trading activities, services and products, leading to enhanced service delivery, consumer welfare, innovation and economic efficiency in the electricity supply industry.

6. OVERVIEW OF RETAIL OR BILATERAL MARKET

The Bilateral or Retail Market is the commercial space where electricity and electricity services are sold directly to consumers or end-use customers in contracted quantities through a Power Purchase Agreement or Direct Supply Agreement. The schematic below depicts both the Wholesale Market and Bilateral or Retail Market.

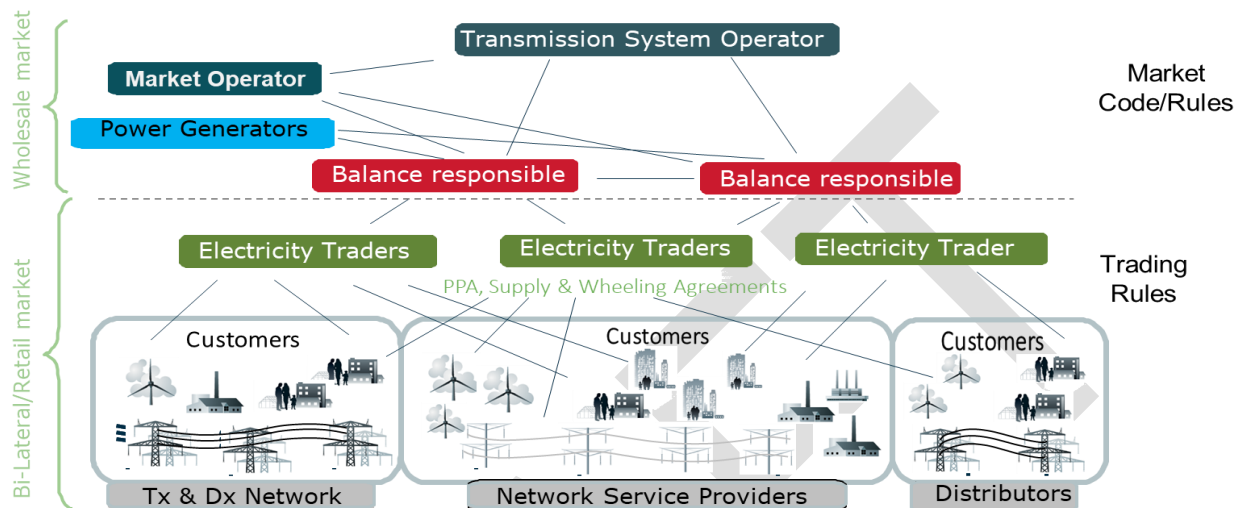


Figure 1: Schematic overview of Wholesale Market and Bilateral or Retail Market

7. APPLICABILITY

7.1 The Rules shall apply to:

- all Traders operating in the Republic of South Africa;
- NSPs; and
- persons licensed to import and export electricity, in relation to that portion of cross-border trading activity which takes place within the borders of South Africa.

7.2 For Traders and NSPs which are participants in SAWEM, a provision in the Market Code, once in effect, will prevail over and operate to the exclusion of any rule that covers the same subject matter, to the extent of any inconsistency.

8. RESPECTIVE ROLES OF TRADERS AND NSPs

8.1 The ownership and operation of a Network is distinct from electricity trading.

8.2 NSPs conducting trading activities must maintain strict accounting and functional separation between their trading operations and their NSP operations.

8.3 Where a person is both an NSP and a Trader, decision-making on matters relating to access to and use of the Network by Traders must be undertaken independently, fair and without discrimination.

9. PPA AND DIRECT SUPPLY AGREEMENT

- 9.1 Power Purchase Agreements and Direct Supply Agreements shall be in writing and contain provisions governing, at minimum volumes and tenor, tariffs and charges, invoicing and payment terms, breach and termination, and dispute resolution processes.
- 9.2 Handling of Customer information within agreements must comply with POPIA to ensure lawful processing and data subject rights.

10. SUPPLIER SWITCHING

- 10.1 A customer may terminate an existing electricity supply arrangement and switch to another Trader:
 - (a) in accordance with the termination provisions of such existing supply arrangement; or
 - (b) in the absence of termination provisions, on 30 days' written notice to the incumbent Trader.
- 10.2 Provisions in supply arrangements on standard, non-negotiable terms relating to termination and switching of Traders must be fair and reasonable having regard to all relevant circumstances.
- 10.3 An NSP which receives notice from a customer that it intends to switch Traders must provide to the incumbent and new Trader, with the customer's consent, Meter Data confirming the customer's consumption as at the date that the switch takes effect.
- 10.4 A Central Switching Platform will later be implemented by the Market Operator, maintaining customer consent logs and unique identifiers to streamline switching and prevent fraud.

11. ENERGY WHEELING

- 11.1 Third Party Wheeling shall be done in accordance with the Wheeling Rules as amended from time to time.

12. REPORTING TO NERSA

- 12.1 Each Trader shall provide NERSA with PPAs and Direct Supply Agreements concluded by it in accordance with its licence for noting and addition to Licence Schedule 1.
- 12.2 On an annual basis, each Trader shall provide to NERSA:
 - (a) details of PPAs and Direct Supply Agreements which terminated or expired during the previous year, and the electricity volumes provided for therein;
 - (b) a summary of the complaints received by Trader and how such complaints were handled; and

- (c) any additional information required by NERSA for purposes of performing its statutory functions.
- 12.3 NERSA may, on reasonable written notice to a Trader, perform or cause to be performed an audit to verify the details submitted by the Trader in respect of its PPAs and Direct Supply Agreements. A Trader which receives such notice shall provide NERSA with access to the contracting documentation on reasonable notice.

13. METER DATA ACCESS

- 13.1 NSPs shall provide Traders with real-time access to Meter Data of a customer that is connected to the Network of that NSP where such customer has provided explicit consent for such Meter Data being shared with that Trader.

14. TECHNICAL STANDARDS COMPLIANCE

- 14.1 Traders shall comply with the licence conditions, these Rules, as well as relevant technical codes and industry standards.
- 14.2 NSPs shall ensure that all relevant Technical Standards, Codes etc. as outlined in its licence are adhered to in quest to delivery required quality of supply to the customer.

15. DISPUTE RESOLUTION

- 15.1 Complaints and disputes relating to these Rules, may be lodged with NERSA and shall be handled and processed efficiently by NERSA dedicated dispute resolution unit.
- 15.2 Parties to complaints and disputes in connection with these Rules shall make every effort to resolve such complaints and disputes amongst themselves, before referring a complaint or dispute to NERSA.
- 15.3 In the event that the parties to a complaint or dispute referred to in 15.2 above are unable to resolve the complaint or dispute, or a party fails or refuses to make efforts to resolve the complaint or dispute, any party may refer the complaint or dispute to NERSA for mediation, arbitration or investigation.
- 15.4 NERSA shall provide for an expedited dispute resolution process for urgent complaints and disputes that materially affect market operation, supply continuity, or financial settlement. Such process should allow for a fast-tracked mediation or determination within defined timelines.

16.MULTIPLE SUPPLY

- 16.1 Each NSP shall implement a clear and transparent reconciliation mechanism to allow for electricity injected by generators connected to its Network and electricity supplied to customers connected to its Network to be reconciled on the basis of prescribed time periods specified by the NSP and approved by NERSA.
- 16.2 Such reconciliation mechanism must recognise that in each such time period, a customer may be supplied from multiple sources, and electricity from a single generator may be supplied to multiple customers and/or Traders, and that this may vary between time periods.
- 16.3 Each Trader must ensure that in each such time period, the volume of electricity that entered the NSP's Network matches the volume of electricity that left the NSP's network, whether consumed by a customer or transmitted through the NSP's Network to the Network of another NSP.

17.TOP-UP SUPPLY

- 17.1 Tariffs levied by a Trader, for NSP Top-Up supply, shall be those approved by NERSA for that purpose.
- 17.2 Tariffs levied by a Trader which is not an NSP for Top-Up supply shall be those agreed between the customer and the Trader.
- 17.3 For the avoidance of doubt, the supply of electricity by a Default Retailer in circumstances of Trader failure is not considered to be Top-Up supply for purposes of these Rules.

18.DEFAULT RETAILER

- 18.1 By default, the NSP shall be the Default Retailer for customers connected to its Network, unless and until that NSP is notified by NERSA that another person is appointed as the Default Retailer.
- 18.2 Where a Default Retailer has been appointed by NERSA, it shall be responsible for supplying electrical energy and associated services to these customers, if the contracted Trader is unable to supply. The prospective Default Retailer to be appointed by NERSA, shall have demonstrated to NERSA's reasonable satisfaction that it is able to assume the role of Default Retailer, at minimum by having sufficient uncontracted capacity to be able to step-in at short notice
- 18.3 Tariffs levied by a Default Retailer for electrical energy and associated services supplied to customers as Default Retailer shall be those approved by NERSA for that purpose.

19. PHASED MARKET TRANSITION

- 19.1 Implementation of these rules will be in a phased approach to ensure lessons learnt from one phase can be implemented in the next phase.
- 19.2 Traders shall commence first with customers with Notified Maximum Demand equal or more than 1 MVA or connected at medium and high voltage may participate in the initial (1st) phase lasting for period of 1 or 2 years. Inclusion of smaller customers shall follow a phased plan approved by NERSA, after the 1st phase, informed by risk, readiness, and market maturity.

20. CONCLUSION

- 20.1 These Trading Rules shall be revised from time to time to accommodate the lessons learnt from the implementation of these Rules, and/or from lessons learnt from trading activities over the period of observation.
- 20.2 These Rules shall be revised when any other relevant legislation changes, or should any section clash or be in misalignment with the Market Code or Market Rules (still in development).

ANNEXURE A

EXISTING LEGISLATION, STANDARDS, CODES

The Rules for Electricity Trading shall be read in conjunction with, but not limited to acts, regulations and other NERSA-approved documents. These are listed in the table below.

Legislation, Codes, Procedures and Standards
1. National Energy Regulator Act, 2004 (Act No. 4 of 2004)
2. Electricity Regulation Act, 2006 (Act No. 4 of 2006)
3. Electricity Regulation Amendment Act, 2024 (Act No. 38 of 2024)
4. Municipal Systems Act, 2000 (Act No. 32 of 2000)
5. Licensing Exemption and Registration Notice No. 1231 of 17 January 2023
6. Competition Act, 1998 (Act No. 89 of 1998)
7. South African Distribution Metering Code Version 6.1
8. Regulatory Rules on Network Charges for Third Party wheeling of Energy, 2025
9. NERSA Complaint and Dispute Resolution Procedure
10. Wholesale Market Rules and/or Code