



28 September 2026

The Director-General

Department of Electricity and Energy

For Attention: Mr Joseph Maraba

Per Email: EPP.Comments@dee.gov.za

Dear Director-General,

RE: WRITTEN SUBMISSION AND OBJECTIONS ON THE DRAFT REVISED ELECTRICITY PRICING POLICY (EPP 2026) – GOVERNMENT NOTICE NO. 7852 OF 2026

1. PURPOSE

1.1 We are writing to submit our formal representations and objections regarding the *draft Revised Electricity Pricing Policy (EPP 2026)* published for public comment.

1.2 While we note the Department's intention to modernise and unbundle the electricity pricing framework, the policy as currently drafted raises serious concerns about consumer affordability, constitutional obligations, transparency, and public trust in the regulatory framework. We therefore request that the Department consider the following substantive points before finalising the policy:

2. BACKGROUND

2.1 Unjustified Taxation on a Basic Need (Value-Added Tax and Municipal Surcharges)

2.1.1 Electricity and basic municipal services are not luxury or discretionary goods. They are essential public services that underpin human dignity, health, safety, education, economic participation and the effective enjoyment of socio-economic rights. Although the Value-Added Tax (VAT) Act 89 of 1991 generally treats supplies made by a registered vendor in the course or furtherance of an enterprise as taxable supplies, basic domestic electricity and municipal services should not be approached as ordinary standard-rated taxable supplies for household consumers. Domestic consumers are generally not VAT vendors, cannot claim input tax deductions, and therefore bear VAT as a final and unrecoverable cost on services that are necessary for daily survival.

2.1.2 From a constitutional and public-law perspective, the State is required to adopt a tariff and taxation framework that is rational, equitable and consistent with the obligation to provide sustainable municipal services. The EPP 2026 must therefore not permit electricity pricing to be structured in a manner that imposes a regressive standard-rated VAT burden on domestic households, particularly where those households are end-users rather than VAT vendors and have no practical ability to recover or offset the VAT charged to them.

Accordingly, the Department must engage National Treasury and the South African Revenue Service on an appropriate VAT relief mechanism for domestic electricity and municipal basic services, including zero-rating under Section 11 of the Value-Added Tax (VAT) Act 89 of 1991 or any necessary legislative amendment to exclude qualifying domestic supplies from the standard VAT burden. This is necessary to ensure that the constitutional purpose of basic service delivery is protected and that households are not required to pay VAT on essential, non-discretionary public services.

2.1.3 This submission specifically calls for domestic electricity and municipal basic services to be removed from the ordinary standard-rated VAT treatment applicable to commercial goods and services. The preferred mechanism is zero-rating, because zero-rated supplies remain taxable supplies at a rate of 0%, while allowing municipalities, Eskom and other registered vendors to recover legitimate input VAT. This would provide direct relief to households without creating hidden input-tax costs that may later be passed back to domestic consumers through tariffs, service charges or municipal surcharges.

2.1.4 At minimum, Free Basic Electricity (FBE), lifeline tariff brackets, basic domestic consumption blocks, network access or capacity charges linked to household supply, and the minimum level of municipal services necessary for basic household functioning must be zero-rated or otherwise relieved from VAT. Taxing poverty-alleviation electricity benefits and essential municipal services undermines their constitutional and social purpose, because the VAT charge increases the cost of access for households that cannot recover input tax and are already exposed to escalating tariffs and municipal surcharges.

2.2 Profiteering via Tariff Hikes vs Constitutional Affordability

2.2.1 We strongly object to the structural trajectory of the EPP 2026, which prioritizes "cost-reflective" models that burden the end-user while ignoring systemic overcharging.

2.2.2 Eskom's reported financial performance, including a reported profit of R30.3 billion, must be assessed against declining sales volumes and the cumulative impact of tariff increases on households and small businesses. Where profits arise primarily from compounding tariff adjustments rather than improved affordability, efficiency and service reliability, the public interest is undermined.

2.2.3 This pricing trajectory may be inconsistent with, and constitutionally vulnerable in relation to, the duties and rights enshrined in the Constitution of the Republic of South Africa, 1996, particularly where it results in unaffordable electricity or restricts meaningful access to essential municipal services:

- Section 152(1)(b) requires local government to ensure the provision of services to communities in a sustainable manner.
- The Constitutional Court in *Joseph v City of Johannesburg* 2010 (4) SA 55 (CC) recognised the importance of access to electricity in the context of municipal service delivery and constitutional obligations. Excessive pricing may compromise access to adequate housing, healthcare, food and water where electricity is necessary to realise these rights in practice.

2.2.4 A public utility pricing model that generates substantial surpluses while households experience worsening affordability pressures risks undermining the constitutional imperative of accessible, sustainable and equitable service delivery.

- 2.2.5 The EPP 2026 must therefore include stronger consumer protection measures, affordability safeguards and transparent limits on tariff increases that cannot be justified by independently verified costs.

2.3 Regulatory Calculation Failures and Deficit of Public Trust

- 2.3.1 The public has lost confidence in the statistical models, data inputs and financial projections underlying Eskom's tariff applications and the Department's proposed pricing framework.
- 2.3.2 This trust deficit is reinforced by the Gauteng High Court matter under Case Number 99969-2025, in which concerns were raised about the accuracy, transparency and public scrutiny of tariff-related calculations. The judgment underscores the need for tariff methodology to be transparent, independently verifiable and open to meaningful public participation.
- 2.3.3 If baseline energy regulation is vulnerable to material calculation errors that are later recovered from consumers through tariff shocks, the public cannot reasonably be expected to accept new unbundled fixed charges without independent audit assurance, full disclosure of assumptions and accessible public engagement.

CONCLUSION AND REMEDIES SOUGHT

- 2.2 The Department of Electricity and Energy is requested to withhold implementation of the Electricity Pricing Policy 2026 until the pricing methodology, fixed-charge assumptions, VAT implications and consumer-impact modelling have been independently audited and published for public scrutiny.
- 2.3 In line with section 152(1)(b) of the Constitution of the Republic of South Africa, 1996, which requires local government to ensure the provision of services to communities in a sustainable manner, the policy must be revised to prioritise consumer affordability, expressly recognise that domestic electricity and municipal basic services are essential public services and not ordinary standard-rated taxable supplies that should carry the same VAT burden as discretionary commercial goods and services, and require formal engagement with National Treasury and the South African Revenue Service on the zero-rating or legislative exclusion of qualifying domestic electricity and municipal service supplies from the standard VAT burden. The Department must further ensure that tariff increases, municipal surcharges and utility surpluses are limited to efficient, prudent and independently verified costs and are not used to compound the VAT burden borne by domestic consumers who are not VAT vendors and cannot claim input tax deductions.
- 2.4 The affordability concern is further supported by the cumulative escalation in electricity and VAT costs since 1994. Published tariff-history data indicates that Eskom's average electricity price increased from approximately 11.8 cents per kilowatt-hour in 1994 to approximately 226 cents per kilowatt-hour in 2026, amounting to an estimated cumulative nominal increase of approximately 1 815% over the period.
- 2.5 Over the same broad period, the standard VAT rate applicable after 1994 increased from 14% to 15%, which represents a one percentage point increase in the statutory VAT rate, or approximately 7.14% relative to the 1994 rate. When these increases are considered together, domestic consumers face a compounding affordability burden: electricity tariffs have increased dramatically, and VAT is then charged on the increased tariff base,

even though domestic households are generally final consumers who cannot claim input tax deductions.

- 3.3 This submission is made in the broader public interest and with due respect for the Department's policy-making mandate. Its purpose is not merely to object, but to place before the Department, and other relevant governmental structures, a legally grounded and constructive basis for reconsidering aspects of the proposed policy that may adversely affect domestic consumers, affordability, and equitable access to essential municipal services. It is hoped that the matters raised will assist in directing further reflection, intergovernmental engagement and policy reform in a manner that better protects the public interest.

This submission will also be submitted to other relevant governmental structures, oversight bodies and regulatory authorities for their consideration, particularly insofar as the issues raised relate to taxation policy, municipal service delivery, consumer affordability, public participation, and the constitutional obligation to ensure sustainable and equitable access to essential services.

Kindly acknowledge receipt of this submission and inform me of the public participation outcomes, the Department's response to the issues raised, and any subsequent revisions to the policy.

Yours faithfully



ANTHONY WALDHAUSEN
CEO

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Attachment: Submission dated 28 September 2026 by MARRC on the request for a review of VAT on domestic electricity and municipal services.