

Quarterly energy market update

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SOUTH AFRICA

In this update for Q2 of 2024, we touch on the following:

- Electricity Regulation Amendment Bill (ERA Bill)
- Draft Wholesale Market Code
- Eskom grid capacity reservation and preservation application
- National Transmission Company of South Africa (NTCSA) commences trading
- Pilot independent transmission projects
- Implementation of South Africa's clean hydrogen ambition



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**QUARTERLY ENERGY SECTOR
ALERT**

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South Africa's energy sector is undergoing significant change, as both public and private sectors seek to find ways to balance energy security with the country's decarbonisation objectives. The CDH Quarterly Energy Update aims to highlight the material legal developments that are shaping the market, with the intention to distil what is relevant for our clients and their businesses.

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Electricity Regulation Amendment Bill awaiting presidential assent

More than two years after it was first released for public comment in February 2022, the ERA Bill was passed by the National Council of Provinces on 16 May 2024 and is currently awaiting Presidential assent.

Subsequent delays in signing the ERA Bill into law are attributable to the recent national elections and the formation of the Government of National Unity. However, there is no clear indication of when the Bill is anticipated to pass the President's desk, with the build-up of public pressure being somewhat mitigated by the recent suspension of loadshedding for more than 100 consecutive days. However, continued movements in the unbundling of Eskom, as discussed below, suggest that the aim to liberalise the market remains a priority.

For more on this, see our previous alert [here](#).

Draft Wholesale Market Code under discussion

The ERA Bill only provides the framework to reform the energy sector in South Africa. Therefore, much dependence will be placed on the formulation and implementation of other regulatory mechanisms, including sector policies, regulations and various market codes.

On 19 April 2024, Eskom launched the Draft Wholesale Market Code (Draft Code) for public comment. As stated by Eskom, the Draft Code is *"an integral part of the new electricity supply industry" that is envisaged under the ERA Bill and will "inevitably shape South Africa's future"*.

Stakeholder workshops on the Draft Code are set to continue until September 2024, with the aim being to submit the Draft Code to the National Energy Regulator of South Africa (NERSA) for approval by November 2024.

For more on the Draft Code, see our previous alert [here](#).

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Eskom grid capacity reservation and preservation application

Despite the implementation of the Interim Grid Capacity Allocation Rules (IGCARs), it is understood that issues remain in the allocation of grid capacity in constrained areas, so much so that it risks the outcome of Bid Window 7 of the Renewable Energy Independent Power Producer Procurement Programme (REIPPPP) having a similar outcome to Bid Window 6.

To manage the issue, Eskom submitted an application to NERSA on 6 May 2024 for approval to reserve or preserve grid connection capacity in favour of any project procured in terms of a ministerial determination published under section 34 of the Electricity Regulation Act 4 of 2006 (the application).

The application is understood to have informed the further extension of the REIPPPP Bid Window 7 submission date from 30 May 2024 to 15 August 2024.

Stakeholders and members of the public were invited to submit their written comments on NERSA's consultation paper for the application by 17 June 2024, and a public hearing was held on 5 July 2024. Industry currently awaits NERSA's decision on the application, which will have significant ramifications. Insofar as it is granted, it will be at the expense of the private power market. If the application is denied, many projects looking to have participated in

Bid Window 7 or future public procurement programmes may no longer be bid ready (absent secured grid capacity) or financially viable (owing to unaffordable grid scope of works).

For more on the scope and implications of the application, see our previous alert [here](#).

Since publication of our previous alert, it is understood that NERSA's sub-committee recommended that the application be rejected. The recommendation will now be considered by NERSA's full board, who will make a final decision on the application.

NTCSA commences trading

Since our last quarterly sector update (available [here](#)), various steps have been taken in the Eskom unbundling process. A significant milestone was achieved on 1 July 2024, as the NTCSA officially commenced trading.

The NTCSA represents a cornerstone of the unbundling process and liberalisation of the electricity market, with various roles assigned to it under the ERA Bill, including that of System Operator, Market Operator and Central Purchasing Agency, which are elaborated on in our alert [here](#).

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Its role as Market Operator is dependent on *inter alia* the promulgation of the ERA Bill, finalisation of the Draft Code and launch of the wholesale market. In the interim, it will assume the role of Transmission System Operator and buyer in respect of Eskom generation and existing power purchase agreements with independent power producers. The necessary legal and regulatory processes are currently underway to transfer Eskom's transmission business to the NTCSA.

Procurement of independent grid transmission projects

With ongoing grid constraints stifling the uptake of new generation capacity, participation of the private sector in the development and operation of transmission infrastructure has long been at the forefront of discussions.

In June 2024, National Treasury confirmed the intention to pilot a model for procurement of grid transmission projects from private parties, which will unlock the potential of securing blended finance for these projects. While no

details are available in respect of the model or timing for implementation, it was confirmed that learnings from procurement under the REIPPPP have, to the extent that they are applicable, been taken into account.

Implementation of South Africa's clean hydrogen ambition

Following approval of the Green Hydrogen Commercialisation Strategy in October 2023, there has been a slowdown in movement in respect of the formalisation of initiatives for the uptake of green hydrogen. While likely attributable to the 2024 national elections, realisation of the green hydrogen economy remains essential to the Just Energy Transition.

Read more on the importance of implementing South Africa's clean hydrogen ambition [here](#).

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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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