

For submission to NERSA and NTCSA : 18 September 2025

SAIPPA comments on the draft Market Code

The National Transmission Company South Africa (NTCSA) released the second draft of the Market Code in June 2025 for final public comment before its official submission to the National Energy Regulator of South Africa (NERSA) for consideration, consultation, and approval in line with Section 34(b) of the Electricity Regulation Amendment Act. This development follows the publication of the first draft in April 2024 and the subsequent public consultation workshops that invited and captured stakeholder feedback.

Based on the information received from members the below feedback forms SAIPPA's submission.

Comment 1: Approval of the Market Codes is a matter of great urgency

Although the proposed Market Code is not perfect and still has some flaws, it is critical that the Market Codes be approved as a matter of urgency. There should be no more public consultation processes- the time for those is over. The liberalisation of the electricity market is dependent on the Market Codes, and it is in no one's interest to delay this liberalisation. SAIPPA would like to see the Market Codes approved as soon as possible, with the undertaking that they will be revised regularly as the market develops.

As the market liberalises and there is more electricity trading and electricity aggregation, a lot more will be learnt and at that time we should revise the Market Codes to make them more fit-for-purpose. The alternative, which SAIPPA seeks to avoid, is to try get a perfect Market Code (in theory), spend unnecessary time and resources to perfect the sand castle, only to discover later when the electricity market is liberalised that the realities show that the Market Codes need to be revised anyway.

It is critical that the regulator does not entertain the ‘lawfare’ that Eskom seems to be conducting to deregulate their monopoly (e.g. Eskom’s recent behaviour with regard to opposition to traders), and they should not be permitted to orchestrate any delay to the approval of the Market Codes and argue that there should be more public participation processes. The time for those is over. Any delay will further jeopardise the opening-up of the market by our April 2026 deadline.

It is suggested that it is important that the regulator gives the undertaking that the Market Code will be revised regularly as we learn ‘on the job’. The Market Codes should be living document with frequent revisions (especially initially).

Comment 2: Bilateral cross-border transactions

The draft Market Code has been updated to remove the ability of market participants to enter into regional physical bilateral contracts, with the exception of the CPA. We note the reasoning behind this removal, namely to prevent market participants from ‘reserving’ interconnector capacity and thereby utilising the interconnectors inefficiently.

Market Participants still have the opportunity to trade internationally via the Market Operator or bilaterally through financial contracts. However, we are concerned that there is insufficient liquidity in the SAPP markets to allow for consistent trading, thus certainty to finance such financial contracts. Customers enter into cross-border trading for the purpose of physical delivery of their contracted power due to capacity and infrastructural constraints in their markets.

For these reasons, we propose an interim mechanism be included in the Market Code to allow for physical cross border trading until an interconnector has reached max capacity. This mechanism may be included as an annexure and last until such time as the liquidity in the SAPP markets is sufficient for consistent financial bilaterals or the SAPP rules governing interconnector capacity are amended to reflect the introduction of SAWEM.

Lastly, we request clarity from section 34 of the market code annexure 2 pertaining to the CPA entering into new physical bilaterals upon “agreement at a political level”.

Comment 3

The following section could be strengthened:

Section 7.1 (1) (g) e.

Specific data relevant to a BRP Trading Unit shall be submitted by the BRP and maintained by the MO. This data shall include the Generating Units’ technology (e.g. coal-fired, thermal, pumped-storage, hydro, wind, solar PV,) as well as emission data relating to the Generating Units.

We might suggest something more specific including fuel and technology codes such those included in:

- <https://www.aib-net.org/sites/default/files/assets/eecs/facts-sheets/AIB-2024-EECSFS-05%20EECS%20Rules%20Fact%20Sheet%2005%20-%20Types%20of%20Energy%20Inputs%20and%20Technologies%20-%20Release%207.9.pdf>.
- https://zarecsweb.s3.amazonaws.com/media/public/file_assets/RECSADomainProtocolSouthAfrica1_0_es8AfqK.pdf.
- With reference to: GHG Protocol, ISO 14064-1 and CDM Tool 7.

This provision indicates that the Market Code considers the origin and characteristics of electricity, particularly in terms of generation technology and operational constraints. However, it does not explicitly address broader attributes like renewable energy certificates or carbon credits. There is no differentiation of price, regulations, roles, responsibilities, and procedures for market participation and governance based on origin of electricity by fuel or technology employed under the SAWEM Market Code.

Comment 4: Definition of a Market Participant

The Market Code defines a “Market Participant” as a party that participates in the Day-Ahead and Intra-Day Markets in the SAWEM and “*is a BRP for trades undertaken on these platforms*”. On a plain reading, this wording appears to require that all Market Participants must themselves be registered as Balance Responsible Parties (“BRPs”).

Annexure 3, however, prescribes the qualifying criteria for registration as a BRP. In terms of these provisions, a party may only register as a BRP if it operates a generating unit or facility with a maximum continuous rating of 10 MW or greater. Consequently, smaller generators and other market actors that do not meet this threshold are not eligible to register as BRPs.

Annexure 3 further provides that any Generator, Trader or Distributor that does meet the qualifying criteria “must register as a BRP with the Market Operator or designate another willing BRP as Balance Responsible on their behalf”. This provision addresses the position of entities that qualify as BRPs but elect not to assume the responsibility directly, permitting them instead to nominate another willing BRP.

The Code, however, does not explicitly address the position of those entities that do not meet the qualifying criteria for BRP registration. While it may be inferred from the balancing framework that such entities must necessarily contract with a BRP to participate, the absence of an express provision leaves room for uncertainty as to whether market participants must always themselves be BRPs or whether they may participate lawfully through an arrangement with a designated BRP. The lack of clarity on this point could give rise to differing interpretations, thereby undermining the proper allocation of responsibility for imbalances, which is fundamental to the integrity of the market design.

For the avoidance of doubt, it is recommended that the Market Code explicitly state that all Market Participants must either (i) register as BRPs themselves where they meet the qualifying

criteria, or (ii) enter into a binding arrangement with a registered BRP who shall assume balancing responsibility on their behalf.

Comment 5: Admission (Collateral Reserve Account)

Clause 6 of the Market Code expressly provides that the requirements for admission as a party apply to both Market Participants and BRPs. However, Clause 6(2)(11) refers only to the “*Market Participation Agreement*” and to the “*Applicant (to become a Market Participant)*,” thereby creating the impression that the admission requirement in question applies exclusively to Market Participants. While it may be inferred from a purposive reading of the Code that a BRP may also be a Market Participant, the drafting leaves scope for ambiguity and interpretive uncertainty, particularly in relation to the establishment of a collateral reserve account.

As presently framed, the provision does not make it clear as to whether such financial security requirements apply only to those BRPs that elect to participate in SAWEM as Market Participants. For greater certainty, the Code could

For greater certainty, the Code could expressly provide that financial security requirements, such as the establishment of a collateral reserve account, apply only to BRPs that elect to participate actively in SAWEM, and not to those that function solely in a balancing capacity.

Comment 6: BRP (Active and Passive)

The Code does not presently draw a formal distinction between BRPs who are also Market Participants and actively engage in SAWEM trading, and those who act solely in a balancing capacity. The absence of such a distinction creates uncertainty in the interpretation of provisions such as Clause 6(2)(11), which appear to impose obligations on “Applicants (to become Market Participants),” without clearly indicating whether the same requirements extend to BRPs who are not Market Participants.

Codifying this distinction would not only resolve the ambiguity in Clause 6(2)(11) but would also provide greater clarity in the application of other provisions, such as Clause 10(3). It would ensure that balancing responsibilities and related obligations are allocated in a manner consistent with the actual functional role of each BRP. In doing so, the Code would achieve greater precision, reduce interpretive risk, and promote consistency in regulatory application.

An additional point on the BRP: The current 5% meter accuracy band for forecast accuracy for renewable energy IPPs is particularly challenging. Weather forecasting that results in accurate generation forecasting, for solar or wind generators, is likely to be outside the 5% actual vs forecast buffer. A higher threshold is proposed especially as forecasting versus actual generation is not currently a capability that generators have built. Thus the accuracy of data is unknown.

Comment 7: Default Retailers

A question arises in respect of default retailers, specifically in relation to generators or consumers who participate in SAWEM but do not qualify to be BRPs and who do not appoint an entity other than the default retailer (Eskom / municipality) as their BRP. In such cases,

responsibility for balancing falls to the default retailer, typically Eskom Distribution or a municipality.

We therefore request NERSA's clarification on the following points:

1. By what mechanism are default retailers expected to account for the generation of entities that do not qualify as BRPs within their respective BRP portfolios? It is assumed that embedded generation approvals will become important here.
2. Will Eskom and municipalities be required to establish a defined application or designation process to confirm their role as default BRPs in respect of such generation?
3. If so, what principles or procedures will govern such a process to ensure transparency, fairness and predictability for both default retailers and smaller generators?

Comment 8: Parameters Expiry Safeguards

Clause 2(3)(r) stipulates that, where the Market Governance Committee ("MGC") fails to determine or communicate new values before the expiry of a parameter, the values in force immediately before such expiry shall continue to apply until replaced. This serves an important continuity function by ensuring that market operations are not disrupted by the absence of updated values.

However, the clause as presently drafted does not contain a limit on how long expired parameters may continue in effect. This creates a risk that outdated values may govern critical market determinations for extended periods, notwithstanding that they no longer reflect prevailing conditions.

The continuity principle should be preserved, but subject to an express safeguard – such as defined time limit after which expired parameters may not continue in force absent formal reconsideration by the MGC.

Comment 9: Independence and Accountability of Governance Bodies

The Market Operator ("MO") both appoints and funds the Market Governance Committee ("MGC") and the Market Surveillance Unit ("MSU"). These bodies are tasked with supervising the operation of the market and enforcing compliance with the Code, including oversight of the MO itself.

This arrangement raises concerns regarding independence and impartiality. The Code does include provisions designed to safeguard independence. The requirement that the MO must consult with NERSA when appointing or replacing members introduces a degree of external oversight. Similarly, the disqualification criteria ensure that members are fit and proper, free from political influence and of suitable professional standing.

Nonetheless, additional safeguards could bolster the trust in governance processes. Such measures could include independent nomination and appointment processes involving industry, consumer and regulator representation, as well as mandated external audits of the MGC and MSU.

Comment 10: Governance of Price Determination

While the provisions of the Market Code relating to day-ahead system prices and the System Marginal Price (SMP) establish the principle of how such prices are to be calculated, they do not specify which entity is responsible for determining them. In particular, it is unclear whether this function rests with the Market Operator, the System Operator, the MCG or NERSA. The absence of an express allocation of responsibility for the determination creates a governance gap.

In addition to this governance, the simulations in the SAWEM School showed areas of improvement in the Market Code scheduling and pricing calculations as currently defined. These corrections would need to be updated in the next version of the Market Code.

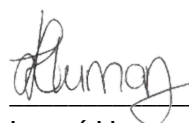
SAIPPA appreciates the opportunity to submit our comments to the draft Market Code. We believe the most important aspect is that the Market Codes must be approved as soon as possible. This is critical in order to meet the 1 April 2026 undertaking to liberalise the electricity sector and have a competitive electricity market. The Eskom will likely do what it can to preserve its monopoly and try delay the liberalisation of the electricity market – one avenue to do this is to delay the adoption of the Market Codes. This would be detrimental to all South Africans and South Africa cannot allow Eskom to try hold the country to ransom.

It is also important that the regulator accepts that the Market Code will be living document and that will require frequent revisions as the South African electricity sector transitions and our electricity trading activities mature. It is suggested that at least initially, the Market Codes should be revised every say 6 months.

Regards



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