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RE: COMMENTS ON DRAFT SA WHOLESALE ELECTRICITY MARKET CODE & RULES

1. We write to you as the following civil society organisations:

   1.1. **Law for Energy Transitions Africa** (LETA): a consortium of NGOs in Africa, including Natural Justice and the Centre for Environmental Rights, which provides technical legal input to shape laws, policies and decisions that advance just transitions to equitable renewable energy power systems across Africa;

   1.2. **Natural Justice:** a pan-African non-profit organisation of lawyers for Communities and the Environment, registered in South Africa. Natural Justice seeks to achieve just energy transitions for Indigenous Peoples and communities;[1]

   1.3. **The Green Connection:** a registered non-governmental organisation that believes economic growth and development, improvement of socio-economic status and conservation of natural resources can only take place within a commonly understood framework of sustainable development. It aims to provide practical support to both the government and

[1] https://naturaljustice.org/

nongovernmental/civil society sectors, which are an integral part of sustainable development;[2] and

1.4. **Project 90 by 2030:** A social and environmental justice organisation inspiring and mobilising South African society towards a sustainably developed and equitable low-carbon future.[3]

2. We submit herein our comments on the draft South African Wholesale Electricity Market (SAWEM) Code ("draft Code") and draft Market Rules ("draft Rules"), in response to the National Energy Regulator of South Africa's (NERSA) consultation paper of 21 April 2026.

3. These comments are endorsed by groundWork, an environmental justice organisation which seeks to improve the quality of life of vulnerable people in Southern Africa through assisting civil society to have a greater impact on environmental governance.[4]

4. We first set out our general comments and concerns on the draft Code and Rules; then we address *some* provisions of the draft Code and Rules in more detail, including responses to some of NERSA's consultation paper questions. Please note that we have not responded to all of the consultation paper questions.

A. GENERAL COMMENTS

5. Our general concerns with the draft Code and draft Rules relate to:

5.1. **Alignment** of the Market Code and Rules with the **Constitution, applicable laws and South Africa's just energy transition imperatives**;

[2] https://thegreenconnection.org.za/
[3] https://90by2030.org.za/
[4] https://groundwork.org.za/

5.2. **Transparency and consultation**: The need for more transparency and public participation to be explicitly provided for in the Code and Rules, in relation to the SAWEM processes and decision-making;

5.3. **Governance**: The need for fully independent and capacitated governance and oversight of the SAWEM; and

5.4. **Affordability and costs**: Risks relating to electricity affordability and high tariffs that may arise from the SAWEM, and the need for the SAWEM Code and Rules to put necessary protections in place.

6. Our overarching concern is that the Code and Market Rules need to be more aligned with the public interest.

7. If these above concerns are not addressed, the implementation of the SAWEM risks taking South Africa in the wrong direction, with higher electricity prices and a lock-in to expensive and polluting power generation technologies.

i. <u>Alignment with the Constitution, applicable laws and South Africa's just transition imperatives</u>

8. It is critical that the objectives of the Code are more fully and explicitly aligned with the Constitution of the Republic of South Africa, 1996 ("the Constitution") and applicable laws like the Climate Change Act, 2024.

9. The Code and Rules must, first and foremost, respect, protect, promote and fulfil the rights protected in South Africa's Constitution.[5]

10. This alignment exercise must also factor in NERSA's own duties under the National Energy Regulator Act, 2004 to act in the public interest, and to make decisions that are consistent with the Constitution and all applicable laws.[6]

[5] S7, Constitution of the Republic of South Africa, 1996.
[6] S9 and 10, NERSA Act, 2004.

11. South Africa's courts have recognised the impacts of electricity generation, particularly from coal and gas power, on people's Constitutional rights.[7] The development of South Africa's Wholesale Electricity Market must take cognisance of these impacts as well.

12. It is well established that South Africa's energy sector has the highest greenhouse gas (GHG) emissions in the country; that South Africa has committed to a just energy transition towards cleaner renewable energy sources[8] and to reducing its GHG emissions in line with its Nationally Determined Contribution under the Paris Agreement and now the Climate Change Act, 2024; and that South Africa has the potential to significantly reduce GHG emissions (and alleviate energy poverty and the health impacts of coal power generation) by deploying more renewable energy.

13. Without the necessary alignment of the Code and Rules with Constitutional public interest and climate protection duties, the Market Code and Rules risk prioritising existing systems which are heavily dependent on fossil fuels, limiting the uptake of cleaner renewable energy, needed to meet Constitutional and climate requirements.

14. Further, the Code and Rules must give effect to the principles and objects set out in the Climate Change Act.[9] The Climate Change Act *specifically* requires the review and, if necessary, revision, amendment, coordination and harmonisation of relevant policies, laws, measures, programmes and decisions in order to ensure that the risks of climate change impacts and associated vulnerabilities are taken into consideration. This includes the Market Code and Rules.

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[7] *Trustees for the time being of Groundwork Trust and Another v Minister of Environmental Affairs and Others* (39724/2019) [2022] ZAGPPHC 208 (18 March 2022) ("the Deadly Air case"); *African Climate Alliance and Others v Minister of Mineral Resources and Energy and Others (56907/2021) [2024] ZAGPPHC 1271* (4 December 2024) ("the Cancel Coal case"); and *South Durban Community Environmental Alliance and Another v Minister of Forestry, Fisheries and The Environment and Others* (479/2023) SCA.

[8] https://justenergytransition.co.za/#:~:text=South%20Africa's%20Just%20Energy%20Transition%20(JET)%20aims,and%20economic%20diversification%20*%20Fostering%20inclusive%20development.

[9] S7, Climate Change Act.

15. If the Code does not set out clear and explicit objectives for renewable energy and if it fails to adequately level the playing field for clean renewable energy, South Africa risks missing a key opportunity, not only to reform and improve the electricity sector, but also to improve the lives and health of the people of South Africa – enabling consumers to derive the financial, health and climate benefits that come with prioritising clean, efficient and least-cost generation technologies.

16. While the draft Code requires participants and BRPs to report their emissions,[10] the Code stops there. It is not clear what emissions are referred to, nor are there any provisions or safeguards for monitoring and verification to properly track clean energy being sold on the market.

17. **Recommendations**:

    17.1. The objectives of the Code[11] should explicitly make reference to the need to align the SAWEM with the Constitution and applicable laws.

    17.2. NERSA must review the Code and Rules in accordance with section 7 of the Climate Change Act, 2024 to ensure that (a) the risks of climate change impacts and associated vulnerabilities are taken into consideration; and (b) to give effect to the principles and objects set out in the Act. Further, the Market Operator (the National Transmission Company of SA, and ultimately the Transmission System Operator) will need to align with the GHG emission reduction goals set for the energy sector in its Sectoral Emission Target[12] and the National Greenhouse Gas Emission Trajectory under the Climate Change Act.[13]

    17.3. The Market Operator and NERSA should look to develop market platforms that specifically enable greater participation from renewable energy producers,

[10] S7.2 draft Market Code.
[11] S2.4, draft Market Code.
[12] S25, Climate Change Act, 2024.
[13] S24, Climate Change Act, 2024.

including community-owned renewable energy projects, and incentivise and/or require off-takers to purchase renewable energy sources. They should set, and make provision for, renewable energy portfolio standards. The development of the SAWEM must go hand in hand with clear and ambitious renewable energy policy targets.

17.4. The SAWEM must be able to track, verify and ensure that only qualified renewable resources contribute to South Africa's decarbonisation and clean energy goals.

17.5. NERSA should require the Market Operator to regularly publish progress reports on renewable energy integration. These reports could include key metrics such as renewable penetration, and storage capacity.

17.6. There should be a merit order dispatch requirement that factors in carbon, air quality and water use and pollution externalities.

17.7. The System and Market Operators must be required to exclude facilities that are not compliant with legal obligations, from market participation. For example, participants who do not comply with legislated air emission standards under the Air Quality Act, 2004,[14] or carbon budgets under the Climate Change Act, should not be permitted to participate in the SAWEM. At the very least, compliance with legislated health and environmental standards and negative impacts should form part of the performance criteria considered in ranking generators. Non-compliant facilities, and/or facilities with high greenhouse gas or pollutant emissions and associated harmful health, climate and pollution impacts should be back-ranked in the dispatch order.

ii. <u>Transparency and public consultation</u>

[14] Listed Activities and Associated Minimum Emission Standards Identified in terms of Section 21 of the National Environmental Management: Air Quality Act, 2004.

18. Transparency is a fundamental cornerstone for well-functioning and accountable market, and it is a duty of the Market Operator under the Electricity Regulation Act, 2006 (ERA) to provide for a "**transparent**, non-discriminatory trading platform"[15] (emphasis added).

19. For certainty and avoidance of doubt, the Code should state what information must be published – where and how it should be made available (ideally online and real-time). Currently the draft Code makes provision for disclosure on a piecemeal basis,[16] and it is not sufficiently explicit on the manner of publication or the extent to which information should be made public.

20. Further, there is a level of granularity in the data reporting requirements that is missing. Given the growing importance of energy attributes (cleanliness, firmness, traceability), the proposed framework does not adequately capture these attributes. Balance responsible parties (BRPs), particularly those representing large loads, should be required to disclose: Contracted energy attributes, flexibility capabilities, and reliance on system balancing resources.

21. Understanding the constraints of information disclosures within competitive market environments, there is no reason why all information should not be published after the fact (i.e. one day after the trading day). This includes prices bid into the Day Ahead Market; generation sources and their greenhouse gas emissions; energy attributes; and dispatch order.

22. The other issue is that opportunities for members of the public to engage in decision-making processes are largely absent. In general, express provision must be made in the Code and Rules to ensure that all affected voices (including consumers, communities and civil society) are included and heard in the processes governing the SAWEM. Consultation on decisions around the wholesale tariff; modifications to the

[15] S34B(3)(a) ERA.

[16] Reference to some disclosure requirements is made in the SAWEM Rule 1: Market Conduct Rules, section 17, but there are a number of important decisions, data and processes referenced throughout the Code, such as Code modifications and standing data, that must be made publicly available.

Market Code; and the transitional arrangements for the SAWEM are not explicitly consultative processes with opportunities to engage. Given the wide-ranging impacts of these decisions, they should be accompanied by public consultation processes.

23. The North Gauteng High Court judgment in *African Climate Alliance and Others v Minister of Mineral Resources and Energy and Others*[17] has made clear that decisions on South Africa's electricity mix have an impact on Constitutional rights, in particular the rights of children, and that affected members of the public must be consulted in these decision-making processes. Here the Court highlighted the obligation on organs of state to consider the impacts of electricity planning on human rights, and to adequately consult. While the case relates to electricity planning for new coal power generation under an Integrated Resource Plan for Electricity (IRP) and a Ministerial Determination,[18] there is no reason why the same rationale should not apply to decision-making and processes within the wholesale electricity market. The rules governing market participation and balancing will have an impact on South Africa's electricity mix and therefore on fundamental Constitutional rights.

24. **Recommendations**:

    24.1. The Code should include a section specifying clearly which data and records must be published; how and where they should be published and by whom, and that the Market Operator must set up an adequate information-sharing platform. The information to be published must include: details of market participant entities; prices bid into the Day Ahead Market; the final dispatch order from the day ahead, intraday and balancing mechanism; generation sources and their greenhouse gas emissions and energy attributes.

    24.2. Important public contracts and records must be publicly available, such as:

[17] (56907/2021) [2024] ZAGPPHC 1271 (4 December 2024) at https://www.saflii.org/za/cases/ZAGPPHC/2024/1271.html.
[18] In terms of s34 of the ERA.

24.2.1. All the contracts entered into by the Central Purchasing Agency (CPA), including vesting contracts[19] – this requires disclosure of the actual contracts, not just a list of contracts or contract templates – as well as the decision-making processes that give rise to the CPA contracts;

24.2.2. The Market Operator's NERSA licence;

24.2.3. Records of Market Governance Committee (MGC) meetings and decisions;

24.2.4. The records of any disciplinary processes, recommendations by the Market Surveillance Unit (MSU),[20] and decisions and sanctions by the MGC;[21] and

24.2.5. The statements, hearings and decisions of the Dispute Resolution Board.[22]

24.3. The Code and/or Rules must make express provision for consultation in respect of decisions such as:

24.3.1. The determination of the legacy charge;[23]

24.3.2. Contracts to be entered into by the CPA;[24]

24.3.3. The market assessment to be conducted by NERSA[25] and determination of the transition period applicable to Eskom and its vesting contracts.

[19] Draft SAWEM Rule 2, CPA Conduct Rules.
[20] S4.5, draft Market Code and SAWEM Rule 1, Market Conduct Rules.
[21] S4.1 (2), draft Market Code and s22, SAWEM Rule 1, Market Conduct Rules.
[22] S5.1, draft Market Code and SAWEM Rule 3, Dispute Resolution Process.
[23] Draft SAWEM Rule 2, CPA Conduct Rules, section A.
[24] Draft SAWEM Rule 2, CPA Conduct Rules, sections A (1); B; and C.
[25] S2.1 (122), draft Market Code.

iii. Governance

25. All of the governance, surveillance, dispute resolution and Code modification functions provided for within the draft Code are housed within the Market Operator. The Market Operator is the "administrative authority" for the Market Code.[26] This would not necessarily be a concern if the Market Operator were housed within a fully independent and separate Transmission System Operator SOC Ltd. However, as things currently stand, the National Transmission Company of South Africa (NTCSA) – where the Market Operator and its functions are housed - is not independent of Eskom Holdings SOC Ltd, as it is a subsidiary company of Eskom Holdings. As Eskom generation facilities and Eskom Distribution will be market participants, there is a real concern regarding the NTCSA's conflict of interest, its market power and undue influence, and the absence of fully independent governance mechanisms to manage the SAWEM.

26. As long as the Market Operator functions are held within a subsidiary of Eskom Holdings, the Market Code, does not do enough to ensure adequate governance and separation of powers necessary for a robust wholesale electricity market.

27. We are concerned about NERSA's capacity and ability to oversee the Market. We would like to know what steps NERSA is taking now to build its own internal capacity to oversee the Wholesale Electricity Market, and how the Department of Electricity and Energy (DEE) is supporting NERSA, if at all, in this regard.

28. We emphasise that the establishment of a Wholesale Electricity Market would bring little benefit to South Africa, and would leave consumers worse off, with heightened financial and environmental risks, if the Market is not stringently and independently regulated and governed.

29. **Recommendations**:

[26] S3.1(1), draft Market Code.

29.1. The Code must explicitly (in section 1, and/or elsewhere) centre the requirement for the establishment of a fully independent Transmission System Operator SOC Ltd (TSO) as a cornerstone for the functioning of the SAWEM and its governance under the Code.

29.2. Until the Market Operator is moved to an independent TSO, the Code must provide for additional oversight, checks and balances, including more oversight powers for NERSA; regular oversight by, and reports to, Parliament and an appropriate Chapter 9 Institution such as the Public Protector.

29.3. NERSA must take steps to build its capacity and resources to oversee and manage the SAWEM.

iv. <u>Affordability and costs</u>

30. As electricity prices are set to increase, it is all the more important that the SAWEM seek to limit and allocate costs in a way that does not see the people of South Africa disproportionately carrying the burden.

31. Under the amended Electricity Regulation Act, 2006 section 15(4), a licensee may charge a customer a tariff which has *not* been set or approved by the Regulator where such tariff is charged pursuant to a direct supply agreement or arises as an outcome of a competitive market.

32. There is a risk that diesel peakers could be frequently setting the system marginal price. If adequate and express provision is not made to support the uptake of cheaper renewable energy and complimentary electro-technology in the market, we run the risk of continuously high electricity prices, leaving us no better off.

33. A major concern, with the SAWEM, and the proposed wholesale electricity tariff more broadly, is the provision for a legacy charge to cover stranded assets and any costs (even if imprudently incurred) by Eskom or the State. There needs to be full transparency and means for accountability and recourse in determining what is and what is not included in the legacy charge that will form part of the new wholesale

tariff. Left unchecked, there will be no incentive on Eskom, or s34 ERA Independent Power Producer (IPP) contracts to be more efficient, and this could have a significant impact on electricity prices.

34. More oversight from NERSA and controls are needed to ensure that there remains ultimate control and accountability to ensure against the risk of unmanageable volatile or high prices emanating from the SAWEM and the wholesale tariff.

35. The Market Price cap is one protective measure against high energy prices emanating from the SAWEM, but this is set by the Market Governance Committee - within the Market Operator, currently NTCSA (Eskom), not by NERSA. The market price cap also does not stop additional costs from simply being added to the legacy charge within the wholesale tariff.

36. A further concern are municipalities. Municipalities do not have to participate in the wholesale electricity market, but they may be balance responsible parties (unless they put in place a suitable third party). This means additional cost exposures for already-strained municipalities. Most municipalities will not have the financial means to participate in the SAWEM and so, will continue to purchase electricity from Eskom Distribution. But these municipalities will nevertheless be exposed to market prices over time because Eskom Distribution will ultimately be exposed to market volatility. The market price cap and vesting contracts for licensed distributors are some measures to address this. Further measures need to be considered and put in place to protect municipalities – and ultimately their customers from these risks.

37. **Recommendations**:

    37.1. Much more clarity is needed – in the Code, Rules and otherwise – on the checks, balances and processes that will be in place to ensure sufficient oversight by NERSA over prices emanating from the SAWEM.

    37.2. Insofar as the wholesale tariff is concerned, this will be addressed separately in the Wholesale Electricity Pricing Methodology and rule-setting

processes for the wholesale tariff. Nevertheless, we record here (and in relation to the SAWEM Code and Rules) the importance of full consultation and transparency in the composition and determination of the legacy charge within the wholesale tariff. This should specifically be provided for in the CPA Conduct Rules (SAWEM Rule 2).

37.3. NERSA needs to incorporate policy commitments to boost cheaper renewable energy, and to set renewable energy targets.

B. COMMENTS ON THE DRAFT MARKET CODE & RESPONSES TO NERSA CONSULTATION PAPER QUESTIONS

38. Please note that we do not comment on every aspect of the Code and/or Market Rules. An omission of comments on a particular provision should not be construed as acceptance or approval of those provisions.

S1: Introduction

39. The introduction should specifically acknowledge and set as a prerequisite to its functioning, the ERA requirement that the Transmission System Operator SOC Ltd be set up by 2030,[27] at the latest, and that, in order for the Market Operator to fulfil the functions set out in this Code once the transition period comes to an end, the Market Operator must sit within an independent TSO. Failure to do this, risks the governance mechanisms set out in the Code being unfit for purpose.

S2: General

40. S2.1 Definitions: Some of the definitions within the draft Code, pose a risk of bias towards traditional fossil fuel-based power plants, and – as they currently stand – risk creating barriers to the integration of renewable energy. For example, the definitions of "Flexible" and "Inflexible" should be adjusted to favour renewable sources, especially making a reference to those renewable sources that can be integrated with storage or other balancing technologies.

41. S2.4 Objectives: The Code should centre Constitutional and climate obligations, the objectives of ERA and the obligation to transition to renewable energy in the Code's objectives. The Code must regulate the SAWEM in the public interest, taking into consideration the duty to promote the rights protected in the Constitution, to protect consumers, and to align with principles and objects set out in the Climate Change Act, 2024.

[27] S35C(1), ERA.

S3: Roles and Responsibilities

42. The primary concern with the roles and responsibilities as currently proposed is that the roles and responsibilities of the Market Operator, particularly relating to governance and surveillance, pose a substantial conflict of interest. While, and so long as, the Market Operator sits within a company that is a subsidiary of Eskom Holdings (presently the NTCSA) the Market Operator should not occupy these functions, and at the very least more checks and balances should be put in place, including for the role of NERSA.

43. The Market Operator must sit within a fully independent Transmission System Operator in order to effectively and fairly fulfil the functions assigned to it under this section. Until that time, additional measures to oversee the Market Operator functions must be put in place.

NERSA Consultation Paper Questions with Responses

1.1 Are the roles and responsibilities of the Market Operator, NERSA, and other entities clearly defined and sufficient to ensure effective market operation and fit for purpose for the proposed market structure?

No. As stated above, the roles and responsibilities are not sufficient to ensure effective market operation due, primarily, to the concerns of a conflict of interest for the Market Operator – the administrative authority for the Code.
Further, all the roles set out in section 3 of the draft Market Code should be reviewed with heightened transparency requirements to publish and/or consult publicly on various processes and decisions, including the making of recommendations.

Coordination between the Minister of Electricity and Energy, NERSA, the System Operator, and the Market Operator should be formalised in the Market Code to create a coherent and aligned strategy for renewable energy integration. This collaboration should include joint planning for renewable energy capacity, grid expansion, and storage development.

1.2 What other responsibilities can be added to the different roles to support a transparent, fair, and non-discriminatory market? Does the Market Code adequately address the role and conduct of distributors, such as municipalities, given their significant role as bulk purchasers of electricity?

NERSA's functions should expressly include additional responsibilities including:

- ***Ensuring that decarbonisation and renewable energy targets are incorporated into and/or alongside the Market Code: It should monitor and enforce the integration of renewables to meet South Africa's climate obligations and duties under the Climate Change Act, 2024.***
- ***Designing the SAWEM for renewable energy: NERSA should work closely with the Market Operator and Market Participants to adapt market design, ensure flexibility and promote storage solutions. This would include ensuring that the Market Operator and Market Participants incentivise renewable energy projects and prioritise access to renewable generators.***

The roles of the Market Operator should be expanded to foster renewable energy participation and market innovations, including:

- ***Promoting renewable market participation: The Market Operator should develop market platforms that specifically enable greater participation from renewable energy producers, and specifically community-owned renewable energy projects. It could design mechanisms to ensure renewables are favoured in market participation, and/or foster local electricity markets for distributed energy resources (DERs), including establishing decentralised electricity markets where smaller renewable producers, including DERs, can participate.***
- ***Facilitating energy storage and aggregation: For the promotion of energy storage and flexibility, the Market Operator should create market structures that encourage the participation of energy storage systems, virtual power plants (VPPs), and aggregated demand-side resources. This would help to ensure a more flexible and resilient grid.***

In response to the final question on distributors, more needs to be done to provide for the role of distributors within the SAWEM – ensuring that they are able to participate within the SAWEM, and that they – and their customers – are sufficiently shielded from volatile prices emanating from the market.

1.3 Does the Market Code provide NERSA with sufficient powers and mechanisms to effectively exercise oversight over the wholesale electricity market?

The Code should provide more oversight functions to NERSA, particularly while and so long as the Market Operator is housed within a subsidiary of Eskom. For example, NERSA should play more of a direct oversight role of the Market Governance Committee and in appointing the committee. NERSA should also be responsible for approving and determining the Market Price Cap. NERSA's oversight should include rigorous public participation, which feeds into how NERSA utilises its powers and mechanisms.

1.4 Does the Market Code align with the regulatory powers and responsibilities granted to NERSA under the Electricity Regulation Act as amended, ensuring that the regulator

can fulfil its mandate to promote fair competition, transparency, and protect the interests of all market participants?

No, for the reasons set out in the responses above.

S4: Market Governance

44. S4: We note the provision for a Market Governance Committee (MGC) to be appointed by the Market Operator, and the number of functionaries and responsibilities that will sit with the MGC and Market Operator, including Market Code modifications (through the Modifications Sub-committee), surveillance (the Market Surveillance Unit) and dispute resolution (the Dispute Resolution Board). The major issue here relates to separation. The MGC functions and the bodies established by and under the Market Operator are key oversight, monitoring, compliance and enforcement functions, which should not sit within the NTCSA (an Eskom subsidiary).

NERSA Consultation Paper Questions with responses: Market Governance Committee

2.1 Are the criteria for appointing Market Governance Committee members sufficient to ensure independence and to prevent conflicts of interest or undue influence?

No. As stated above, NERSA should play a more substantial role in the appointment of the MGC. NERSA should be required to approve appointments, rather than merely being consulted by the Market Operator.[28] Further, while the requirements for membership of the MGC are neutral, and in and of themselves, not objectionable, a further provision should be put in place to ensure that the MGC reflects a diverse range of perspectives, sectors and backgrounds, including those of electricity consumers and affected communities. The MGC should not be made up solely or even largely of industry representatives. The Code must expressly state that any employees, representatives or affiliates of market participants should be excluded from serving on the MGC.

2.2 Should additional measures be implemented to enhance governance and accountability, such as granting NERSA the authority to appoint members to the Market

[28] S4.1.3, draft Market Code.

Governance Committee (MGC) and allowing NERSA to assume the role of chairperson for the MGC?

Yes. NERSA should have the authority to appoint members to the MGC, or at least approve appointments to the MGC.

2.3 Does the code establish clear guidelines for stakeholder engagement, including public consultation for modifications to the Market Code, regular forums for feedback, and publication of consultation outcomes?

No, the Code does not establish clear or adequate guidelines. Provision should be made for broader stakeholder engagement in the modifications process (not only consultation with market participants and functionaries) – as per the point above. The Market Operator is required, in developing the Market Code and Rules, to ensure a consultative stakeholder process is followed. The same should apply for any proposed modifications to the Code.

Express provision should be made in this section for the publication of Modification Recommendation Reports (as per s4.3.6).

NERSA Consultation Paper Questions with responses: Dispute Resolution

2.8 Is NERSA's role in the resolution of disputes clearly defined? How can NERSA ensure that the decisions of the DRB are fair and impartial?

No. The Code and Rules say nothing about NERSA's role in the dispute resolution process.

2.9 Should NERSA have a more active role in mediating disputes between Market Participants and other stakeholders? If so, what should this role entail?

Ideally NERSA, should be involved in the appointment of the Dispute Resolution Board (not the MGC as currently provided for in s4.4(3)) and should exercise oversight over the dispute resolution process, provided for in s5 of the draft Code.

NERSA Consultation Paper Questions with responses: Market Surveillance Unit

2.10 What additional provisions could be introduced to strengthen the MSU's ability to monitor and address market misconduct?

It is highly problematic that the MSU will sit within the Market Operator, so long as the Market Operator is a division of the NTCSA (a subsidiary of Eskom). The MSU should be fully independent of Eskom.

The MSU is tasked with monitoring that the Market Operator is complying with the Market Code and the Market Conduct Rules and its timelines[29] and at the same time, the Code designates the MSU with the authority to represent and act on behalf of Market Operator in all matters regulated by the Market Conduct Rules. It is an inherent conflict of interest for the MSU to be to be tasked with both monitoring compliance of the Market Operator, and representing the Market Operator.

2.11 Are the market surveillance mechanisms described in the Market Code adequate to detect and address anti-competitive behaviour?

No. See reasons in response (to question 2.10) above. Further, more provision needs to be made in the Code and Rules for complaints and queries to be filed by consumers, whistleblowers and members of the public more generally. The Code and Rules must set out a process to be followed and place an obligation on the MSU to investigate and respond to complaints filed by any stakeholders.

2.12 Are the enforcement measures for non-compliance or market abuse clearly defined?

The enforcement measures and sanctions are not sufficiently clear. The Code and Conduct Rules must provide more clarity on the potential scope and nature of sanctions (for non-compliance with the Conduct Rules) that could be imposed, for certainty, uniformity and fairness. Further, the decisions and sanctions issued by the MSU and MGC in relation to any breach of the conduct rules must be published and made publicly available.

2.13 What specific measures should NERSA implement to ensure the Market Surveillance Unit (MSU) operates in alignment with the Market Code and Market Conduct Rules?

NERSA must ensure the utmost independence and autonomy of the MSU – ensuring that it is housed within a fully separate entity, fully independent from Eskom. The MSU decisions must also be subject to scrutiny and oversight from NERSA and the public.

2.14 How can NERSA effectively monitor the MSU's activities to ensure it identifies and addresses instances of market abuse or non-compliance?

[29] S4.5.2, draft Market Code.

NERSA must improve and add resources to its compliance-monitoring capacity. It should set up a specific committee, with the necessary expertise, to oversee the implementation of the SAWEM for, at least, the duration of the transition.

2.15 What criteria should NERSA use to evaluate and approve the operational framework, methodologies, and procedures of the MSU?

The criteria must be in line with NERSA's legal obligations to act and make decisions in accordance with the Constitution and the public interest,[30] this includes NERSA's duties to consult, to act in a transparent manner, and to promote the protection of Constitutional rights, including social and environmental safeguards.

2.16 How can NERSA ensure that the MSU's operations promote transparency, fairness, and non-discrimination in the market?

NERSA must ensure that MSU decisions and decision-making processes are publicly available and accessible. The MSU must also be accountable to respond to any complaints or queries regarding improper conduct, and provision must be made for recurse for stakeholders in the event that the MSU does not respond, investigate or take action following a complaint or allegation of misconduct.

2.17 What mechanisms should NERSA establish to hold the MSU accountable for its performance and compliance with the Market Code?

NERSA must have discretion and authority over the appointment and removal of the MSU, and it must have full and real-time access to MSU processes, information and decision-making. The Code and Rules must also make provision for recourse to NERSA if the MSU fails or refuses to respond to, or address, any breach of the Market Conduct Rules.

2.18 How frequently should NERSA conduct audits of the MSU to assess its effectiveness and compliance with prescribed rules?

NERSA should be conducting regular and day-to-day oversight of the MSU to ensure against improper conduct by the MSU. Assuming that this regular oversight is taking place, audits could be conducted monthly or quarterly.

[30] S10, National Energy Regulator Act, 2004.

S6: Market Participation and Balance Responsible Parties

NERSA Consultation Paper Questions with Responses: Market Participation

3.2 Should the qualifying criteria be expanded to accommodate additional category(s) of market participants? How can the code be improved to include measures to support their participation?

Provision should be made, in the Code, to accommodate small renewable energy producers, including community renewable energy projects and cooperatives that may have the generation capacity, but not the financial means, to participate in the SAWEM. Similarly, community-scale consumers (connected at high or medium voltage), should be supported in participating in the SAWEM. Support measures here would entail financial support and/or relaxation of the credit requirements for market participation.

3.3 Do the provisions in the code prohibit preferential treatment of certain participants? Consider how the code can promote competition to ensure a level playing field for all participants?

There is a risk of preferential treatment for Eskom, because the Code houses the market surveillance and market governance functions within a subsidiary of Eskom.

S7: Registration of Trading Resources and Standing Data

45. S7.2 and 7.3: For Balance Responsible Parties[31] and Market Participants[32] – the lists of data that must be provided include, inter alia, the technology type of generating units (for e.g. coal, hydro, pumped storage, solar, wind etc) and the emission data relating to the generation units.[33] The provision should also clarify what kind of emissions must be reported – greenhouse gas emissions; air or water pollutants. It should be all of these.

46. Standing data should also include water consumed; full costs (including social and environmental); and compliance, and non-compliances, with relevant and applicable laws.

[31] S7.2, draft Market Code.
[32] S7.3, draft Market Code.
[33] S7.2 (g)(e) and 7.3(1)(i)(e)), draft Market Code.

S9: Day Ahead Market

NERSA Consultation Paper Questions with Responses: Day Ahead Market

4.1 Are the objectives of the Day-Ahead Market clearly defined and aligned with broader electricity market reforms?

S9 does not stipulate any objectives for the day ahead market – as such they are not clearly defined. The objectives ought to be the promotion of the public interest, electricity affordability and sustainability (including meeting legal obligations to address climate change).

A primary concern relates to the setting of the market price cap.[34] The market price cap must be set by NERSA, through and following a consultative and transparent process. It should not be the MGC that sets the market price cap. This creates an unacceptable conflict of interest and does not ensure sufficient protection for consumers or alignment with power sector reforms.

The System Operator may set performance criteria[35] for each reserve category. Here more detail could be provided on the kinds of performance criteria to be set. Criteria should include legal compliance and/or impact-based criteria. Generators that do not comply with legal requirements (legislated minimum emission standards[36] for example) or have particularly high greenhouse gas and pollutant emissions should not participate in or be compensated within the reserve market.

4.3 Does the market code make provisions for data accessibility to support informed trading decisions? Consider if additional data must be published on the trading platform to ensure informed trading decisions in the DAM.

As stated above, all the information from the previous trading day (prices; market participants; dispatch order etc) should be published. The standing data to be reported (as per s 7) should include greenhouse gas and air pollutant emissions; water consumed; full costs (including social and environmental); and compliance, and non-compliances, with relevant and applicable laws.

Members of the public (not only market participants and BRPs) should be invited to comment on any proposed changes to the dispatch algorithm,[37] given the impacts on electricity prices and impacts on the public interest in general that come with changes to the dispatch algorithm.

4.4 Do the trading mechanisms outlined in the Market Code promote fair competition and efficient price discovery?

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[34] S9.7.1, draft Market Code.
[35] S9.9.3, draft Market Code.
[36] Under the Air Quality Act, 2004.
[37] S9.6(8), draft Market Code.

Whether the mechanisms promote fair competition and efficient price discovery will very much depend on the level of transparency and public availability of data, as recommended above.

With regard to S9.6(2)(d): "Where a Trading Unit has a physical trade allocation as per the BRP schedules this allocation is treated as a "must-run" and is not adjustable in the Unconstrained Schedule", we are concerned about the implications of this provision for electricity costs and the make-up of our electricity mix, if it means that inefficient, polluting and expensive generation (coal or high capacity-factor gas power from s34 independent power producers (IPPs) for example) will be forced to run to the exclusion of cheaper and cleaner alternative generation technologies. This "must run" requirement should be reconsidered and conditioned on system efficiency criteria.

S11: Real-time Dispatch

NERSA Consultation Paper Questions with Responses: Day Ahead Market

4.11 Are processes for managing system constraints, deviations from market schedules managed in a transparent and predictable manner? Consider if additional mechanisms should be introduced to improve the visibility of constraints and market schedules to market Participants.

Additional mechanisms should be introduced. The System Operator's daily report[38] on the revised Constrained Schedule and the real-time dispatch schedule, should be published and publicly available. It is not enough that it only be submitted to NERSA on request.

[38] S9.10.5, draft Market Code.

C. COMMENTS ON SAWEM MARKET RULES & RESPONSES TO NERSA CONSULTATION PAPER QUESTIONS

47. The designation, scope and status of the Rules accompanying the Market Code are unclear. NERSA should more clearly specify the nature of these Rules and whether they have application *beyond* the SAWEM. This is important for legal certainty and enforceability.

48. In the introductions it is stated that "These Rules form part of the Market Code and Rules governing the South African Wholesale Electricity Market (SAWEM)". This still does not clarify whether these rules apply *beyond* the SAWEM and to South Africa's electricity market more generally (regulating also the purchase and sale of electricity through long-term bilateral agreements, outside the SAWEM, for example).

49. Further, Rule 2 (CPA conduct rules) also requires some refining as a number of the provisions are not clear; are vague[39] and/or ambiguous; or are simply not suitably placed within conduct rules. These are ostensibly rules that are intended to govern the CPA's *conduct*, yet they purport to deal with much broader aspects like vesting contracts and the wholesale tariff.

50. **Recommendation**: For the rules governing obligations beyond SAWEM, like balance responsibility and the Central Purchasing Agency (CPA) Conduct Rules, it would make sense for these rules to apply more broadly than the wholesale market, in which case they should not be called "SAWEM Rules" but rather separate Market Rules that can incorporate and find application in the SAWEM Market Code and beyond the SAWEM. The Market Conduct rules and dispute resolution process, however, apply strictly to market participants and parties and should be annexures to the SAWEM Market Code, or incorporated directly as sections in the Code.

<u>NERSA Consultation Paper Questions and Responses: SAWEM Rules</u>

9. Questions / Comments on SAWEM Rules

[39] For example section C(8).

9.1 Clarity and applicability of rules
Are the proposed rules sufficiently precise in their articulation of purpose, scope, and applicability to all relevant stakeholders, including market participants, signatories to the market code, the Central Purchasing Agency (CPA), and dispute resolution entities?

No, the Rules are not sufficiently precise or sufficiently clear. Much more work is needed on their framing and scope. As stated above, it is not clear whether these Rules, and if so, which, apply beyond the SAWEM and to balance responsible parties that are <u>not</u> involved in the SAWEM. It should be clarified which of these rules apply to the SAWEM and which apply beyond the SAWEM. For example:

- ***The scope of application of the SAWEM Rule 1: Market Conduct Rules must be clarified. It states that it applies to market participants and parties to the Market Code (not BRPs), but then later that the MGC can impose sanctions on Market Participants and on Balance Responsible Parties. Could BRPs who are not market participants be held liable under the Conduct Rules?***
- ***The title of Rule 4: Non-Market Participant Balance Responsible Parties Rules, suggests it applies only to Non-Market Participant Balance Responsible Parties. However, the substantive provisions, such as section A 1(d) clearly extend the rule's application to all Balance Responsible Parties, including Market Participants. This inconsistency creates ambiguity regarding the scope of application and may lead to uncertainty.***

9.2 Alignment with governance framework
Do the proposed rules align with the South African Wholesale Electricity (SAWEM) governance framework and integrate seamlessly with the overarching market code, ensuring a consistent and robust governance structure for the SAWEM?

No. There are a number of instances where it is not clear how the Code and Rules speak to one another. For example, the information disclosure provisions in the Market Conduct Rules (S17 and 18). It cannot be correct that the information listed in the Market Conduct Rules is the <u>only</u> information subject to public disclosure as there is also information provided under the Code that will need to be published, such as the standing data referenced in section 7 of the Code, as well as deliberations on Market Code modifications (s4.3) and the setting of the market price cap (s9.7.1). This should be clarified.

9.3 Coverage of anti-competitive behaviour
To what extent do the market conduct rules comprehensively address all forms of anti-competitive practices and market abuse pertinent to the SAWEM environment?
Are there identifiable gaps or vulnerabilities, and how should compliance be monitored and enforced, particularly in delineating the roles of NERSA and the Market Surveillance Unit of the Market Operator?

A significant vulnerability already identified above is the fact that the MSU sits within the Market Operator (which sits within the NTCSA, a subsidiary of Eskom). There's an

inherent conflict of interest and risk of the MSU not fulfilling its functions independently.

As stated above, the Rules also fail to make provision for whistleblowers or members of the public (consumers and other stakeholders) to file complaints or queries regarding the conduct and compliance with Conduct Rules by market participants. This is a significant gap in the accountability measures in the Code and Rules. The Rules must provide for detailed processes for whistleblower and public complaints and queries – with obligations on the MSU to respond, and for recourse to NERSA if the MSU fails or refuses to respond to or address the query.

9.4 Cost recovery mechanisms
Is the proposed mechanism for recovering CPA-related costs and reconciling contract-to-market price differences through a legacy charge applied to all consumers economically justified and equitable? What alternative cost recovery measures could be considered to enhance fairness and efficiency?

The cost recovery mechanism through a legacy charge is a big concern, because there is a risk of all costs incurred imprudently by Eskom or the State, through long-term ERA s34 IPP procurement, simply being added to, and recovered through, the legacy charge – with no recourse for the public or incentives on Eskom and others who will benefit from the legacy charge, to change their behaviour. The legacy charge is a means to ensure that members of the public will pay for stranded assets that should not have been allowed to proceed, or continue operating, in a least-cost and efficient power sector. This is inherently unjust and will result in harmful outcomes for electricity prices and for the electricity mix.

The CPA plays a central role in allocating costs, risks and benefits associated with legacy contracts and, as a consequence, the energy transition. However, in its current version, the CPA Conduct Rule does not explicitly articulate how CPA practices should ensure fair distribution of system costs or align with broader Constitutional objectives. The CPA Conduct Rules should explicitly incorporate principles of transparency, best practice and a just energy transition into the CPA mandate, supported by concrete practices such as:

- ***Cost transparency and traceability: Require clear disaggregation of costs recovered through the CPA (e.g. legacy costs (and disaggregated components making up the legacy costs), renewable procurement, balancing costs), enabling stakeholders to understand what they are paying for and why – as well as a process to object and seek recourse where costs are not prudently incurred or justifiably being recovered.***
- ***Equitable cost allocation: Ensure that cost recovery mechanisms reflect cost causation to the extent possible, avoiding undue cross-subsidisation, particularly where large or sophisticated consumers may otherwise shift system costs to smaller or more vulnerable users.***

- ***Integration of flexibility as a system resource: Incorporate storage, demand response, and hybrid renewable solutions (e.g. wind + solar + storage) into CPA procurement and balancing strategies to reduce overall system costs and reliance on expensive balancing actions.***
- ***Incentives for improved forecasting and performance: Strengthen the link between forecasting accuracy and cost allocation, so that deviations and balancing costs are progressively internalised by the parties best able to manage them.***
- ***Alignment with decarbonisation pathways: Ensure that CPA bidding and management practices prioritise low-emission, low impact resources where system conditions allow, and that emissions data that is collected is actively used to inform operational and procurement decisions.***

9.8 Transparency and confidence in SAWEM operations
Do the collective provisions of the proposed rules effectively enhance transparency, accountability, enforceability, and stakeholder confidence in the governance and operation of SAWEM?

No, the Rules do not do enough to enhance transparency, accountability, enforceability and stakeholder confidence. The Rules need to be more explicit in requiring the public disclosure of a number of important documents and decisions, as well as stakeholder consultation in respect of all CPA contracts <u>before</u> they are entered into. All contracts entered into by the CPA (the full executed contracts) must be publicly available. These are contracts entered into by a public entity, with important public interest impacts.

Note that, under ERA, the CPA is the designated buyer for "existing Independent Power Producer power purchase agreements, as well as new Independent Power Producer power purchase agreements, as required by Ministerial determination". This risks the CPA being tied and locked into unsustainable and expensive power procurement agreements in the future, and being forced to recover the costs of stranded assets through the legacy charge.

SAWEM Rule 2, section E(1) states that "the CPA shall support any procurement process as per section 34 of the ERA". For improved accountability and stakeholder confidence, this provision should be discretionary and subject to prior approval from NERSA and a prior public participation process. Any CPA obligations in this regard must also be subject to conditions and the requirement that the procurement process is in the public interest, is value for money and is aligned with the Constitution and South Africa's obligations to address climate change.

Vesting contracts (the full executed contracts) must be required, in the Rules, to publicly available and published on the Market Operator's website (amendments to s C (1) and (2) required). There must be a public consultation and comment process <u>prior</u> to the contracts being entered into. The draft contracts must be made available in this process for consideration.

Overall, the transparency provisions in the SAWEM Rule 1: Market Conduct Rules are unclear and confusing. It is not possible to ascertain from reading these rules what is and what is not publicly disclosable information.[40] Without more clarity, it is difficult to properly comment and make informed input on the Market Conduct Rules.

Finally, the Conduct Rules must provide more clarity on the potential scope and nature of sanctions that could be imposed, for certainty, uniformity and fairness. The decisions and sanctions issued by the MSU and MGC in relation to any breach of the conduct rules must be published and made publicly available.

9.9 Legacy Cost Recovery
How should legacy costs be calculated and recovered in a transparent manner? Are there best practices or methodologies from other electricity markets that could serve as benchmarks for SAWEM?

Because the legacy charge will ultimately be carried by consumers, the rules need to have sufficient checks and balances in place to ensure that there is full transparency, accountability and recourse in determining what is and what is not allowed to be included the legacy charge.

The rules should expressly provide for a consultative and transparent process to be followed by NERSA in determining and approving the legacy charge. NERSA should be responsible for determining the legacy charge – not simply approving it.

More clarity is needed on the process to be followed by the CPA should it wish to apply for a revision of the legacy charge.[41] Who is this application for revision made to (presumably NERSA, but this should be explicit)? What process must be followed? There must be a stated requirement for public notice of such an application and an opportunity for public comment and engagement. As for the annual legacy charge calculation,[42] the amount for this charge should be capped. In theory the legacy

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[40] Examples include:
S(17)(a) – "The information to be publicly disclosed shall be limited to information relevant to facilities for production, consumption or transmission of electricity regarding (a generation unit is defined as one generator and a production unit is defined as a unit holding several generation units)". The sentence in subsection (a) is incomplete as there is a word missing after 'regarding'.
Subsections (b) to (f) - appear to be incomplete as it is not clear what the requirement is - what must happen with the items and information listed here? The s14 heading implies that the listed information must be disclosed but this is not stated in the section, and the leading sentence for these subparagraphs needs to be completed.
Sections 17 and 18 - appear to deal with information disclosure in narrow circumstances, yet the provision is unclear and ambiguous. Does this apply to all information disclosure across the Code and in the operation of the SAWEM or only in particular circumstances?
Section 11 - seeks to define "inside information" implying that it is information that should not be published. S14 then states that "Insider information shall be published using the prescribed information service in the SAWEM."
[41] Section A (4), SAWEM Rule 2, CPA Conduct Rules.
[42] Section A (3), SAWEM Rule 2, CPA Conduct Rules.

charge should not exceed the initial charge, as more affordable electricity generation capacity should be incentivised to enter the market. In other words, within a well-functioning SAWEM, there should be no justification for new stranded assets or inefficient expenditure to emerge, nor for consumers to bear the associated costs.

Further, there is a risk of regressive cost allocation. The legacy charge is to be recovered from all consumers, irrespective of size, consumption profile, or ability to switch or hedge. This may result in regressive outcomes, where low-income residential consumers bear a disproportionate burden of legacy costs, while large or more resourced consumers may mitigate exposure through off-grid arrangements. Although this is more applicable for retail tariffs, NERSA should consider introducing mechanisms to assess the distributional impact of the legacy charge and differentiate cost allocation where appropriate, based on type of consumer.

As for the more specific aspects of the SAWEM Rule 2: CPA Conduct Rules, section (1) of the CPA Conduct Rules states that "a list of all CPA contracts shall be maintained on the NTCSA website including the Programme, Company Name, Project Name, Capacity, Technology, Term, Province". This section should be amended to state that the <u>full contracts</u> must be publicly available (not just a list of the contracts) and must be uploaded on the Market Operator's website. The list of data to be maintained must include prices. This section (1) along with sections (5) and (6) do not belong under the heading "Legacy Charge", as they deal with all CPA contracts and aspects beyond the legacy charge. They should be moved and allocated their own section in the Rule.

The meaning of section B(5) will need to be clarified: "If the forecast from an intermittent IPP is outside of an agreed band approved by NERSA, the CPA shall be allowed to use the SO forecasts." What are the bands that will be approved by NERSA? In terms of what process?

9.10 Treatment of BRPs in market mechanisms
Is the proposed treatment of balance responsible parties (BRPs) in the day-ahead market, intra-day market, and balancing mechanism—including the application of "must-run" status and the use of R0/MWh deemed incremental pricing—appropriate and conducive to market efficiency?

As stated above, we are concerned about the risk of inefficient "must-run" treatment (section (8) in the Non-Market Participant Balance Responsible Parties Rules). Treatment of physical trade allocations as "must-run" may reduce system flexibility. There is a risk that inefficient, polluting and expensive generation (coal or high capacity-factor gas power from s34 independent power producers (IPPs) for example) will be forced to run to the exclusion of cheaper and cleaner alternative generation technologies that are readily available.

This rigidity may hinder efficient dispatch and limit integration of variable renewable energy. The "must-run" designation should be re-assessed and conditioned on system efficiency criteria.

9.11 Definition and Feasibility of Obligations for Non-Market Participant BRPs
Are the obligations and rights of Non-Market Participant Balance Responsible Parties (BRPs) clearly articulated within the Market Rules, and do they align with the operational and financial capabilities of these entities?

As stated above, the scope of the Non-Market Participant Rules remains unclear. Balance responsibility applies beyond the SAWEM – to long-term bilateral agreements and PPAs, as well as SAWEM. These obligations should form part of broader power sector market rules, not just the "SAWEM Rules" (as the title suggests).

Should Non-Market Participant BRPs be required to meet the same technical and financial requirements as full Market Participants, such as providing day-ahead schedules and posting collateral?

Certainly, and more preferably, a distinction between different types of BRPs should be made. The current version of the Rule does not explicitly address the regulatory treatment of large electricity consumers with high reliability and potential for clean energy requirements. Absent targeted provisions, such loads may pose tensions on generation and network expansion, relying significantly on system balancing and backup capacity, while shifting associated costs to regulated tariffs and other users. The Rule should include provisions requiring large loads – directly or via their BRPs – to:

- ***Secure long-term renewable energy supply arrangements;***
- ***Demonstrate adequacy of firming or storage solutions;***
- ***Participate in demand response or flexibility programs; and***
- ***Contribute proportionately to system expansion costs.***

Section A of the Rule establishes eligibility criteria but, as noted above, does not distinguish between categories of BRPs based on system impact, particularly BRPs that represent large and growing loads such as data centres. Large electricity consumers can have disproportionate impacts on system planning, network expansion, and balancing requirements. Further, the current criteria do not explicitly recognise aggregators or demand-side flexibility providers, schemes that foster distributed resources and small-scale clean energy technologies.

Section B effectively subjects all BRPs to Market Participant obligations without differentiation. This may impose excessive compliance burdens on smaller or non-market actors.

Section B 6(g) requires submission of technology type, and emissions data. The Rule should expand data requirements and clarify their regulatory use by including

requirements for reporting on: renewable energy sourcing; associated storage or firming arrangements; and emissions reductions and projections. This would enable better alignment with decarbonisation objectives and improve transparency.

Section F (Metering Installations) poses potential barriers for smaller actors. Strict metering requirements may pose challenges for smaller generators, distributed resources and community-based projects. The Rule should introduce simplified metering requirements for smaller participants, and pathways for aggregated (i.e., community) metering solutions.

If Non-Market Participant BRPs are unable to meet these requirements, should the Market Rules mandate that they contract with existing Market Participants to fulfil these obligations?

No. It is not clear what the rationale for this would be, and it would risk placing an additional cost and burden BRPs.

D. CONCLUSION

51. Thank you for considering our comments. Please feel free to contact us should you have any questions or comments.

Yours sincerely

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