PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

NOTICE 4199 OF 2026

MR K. MILEHAM, MP

NOTICE OF INTENTION TO INTRODUCE A PRIVATE MEMBER'S BILL AND INVITATION FOR COMMENT ON THE DRAFT ELECTRICITY REGULATION AMENDMENT BILL, 2026

Mr K. Mileham, MP, acting in accordance with section 73(2) of the Constitution of the Republic of South Africa, 1996, intends to introduce the Electricity Regulation Amendment Bill, 2026 ("draft Bill"), in Parliament. An explanatory summary of the draft Bill is hereby published in accordance with Rule 276(1)*(c)* of the Rules of the National Assembly (9th Edition).

The draft Bill seeks to close the accountability gaps that have allowed the National Energy Regulator ("NERSA") to preside over R54.7 billion in calculation errors without consequence. The draft Bill codifies the principle of finality, regarding tariffs set or approved by NERSA, to ensure that the South African consumer does not bear the financial cost of any calculation errors.

In accordance with the recent North Gauteng High Court judgments of *Afriforum v NERSA & Others* ("*Afriforum* judgment") and *Eskom v NERSA & Others*, the draft Bill provides that any error made in respect of the setting or approval of a tariff may only be corrected, varied, or set aside by judicial review. The aforesaid will therefore end the practice of labelling multi-billion rand calculation errors as "clerical errors" in order to avoid public scrutiny.

Furthermore, the draft Bill ensures that a tariff set or approved by NERSA may not be implemented in a financial year that has already commenced and must be applied prospectively in order to avoid back-dated retrospective "clawbacks" that ignore the *functus officio* doctrine. In accordance with the *Afriforum* judgment, the draft Bill mandates that cost of supply studies must accompany all tariff applications submitted to NERSA in order to end the era of "benchmarking" and unsubstantiated municipal hikes that have left consumers facing potential retrospective and retroactive billing chaos.

In summary, the draft Bill is a direct intervention to restore the rule of law to energy regulation and to ensure that technical failure by the state does not continue to manifest as an assault of the wallets of ordinary citizens.

Interested parties and institutions are invited to submit written representations on the proposed content of the draft Bill to the Speaker of the National Assembly within 30 days of the publication of this

notice. Representations can be delivered to the Speaker, New Assembly Building, Parliament Street, Cape Town; mailed to the Speaker, P O Box 15 Cape Town 8000, or emailed to electricityrabill@parliament.gov.za and copied to legislation@da.org.za

Copies of the draft Bill may be obtained by emailing legislation@da.org.za