

PUBLIC CONSULTATION SUBMISSION

# National Electricity Sector Policy 2026

Ensuring a Regulatory Framework That Attracts and Sustains Independent Power Producer Investment

Submitted to: Ministry of Home Affairs, Government of Bermuda

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## 1. Opening Position

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This submission responds to the public consultation on the National Electricity Sector Policy 2026 (NESP 2026) launched by the Ministry of Home Affairs on 16 April 2026. We welcome the policy as a serious and overdue update to Bermuda's energy governance framework, and we support its core emphasis on affordability, reliability, and equitable access.

Our submission focuses on a structural dimension of the policy that is currently absent from the draft: the regulatory framework governing the commercial relationship between Bermuda's grid and the independent power producers (IPPs) it will need to attract in growing numbers. The NESP 2026 addresses how Bermuda should manage the energy transition from the perspective of consumers and the regulated utility. It does not address how Bermuda should treat the generators who will finance and operate the new capacity that transition requires.

This is not a peripheral concern. Bermuda's renewable energy future — whether framed around the revised targets in NESP 2026 or the more ambitious goals of the 2019 Integrated Resource Plan — depends on attracting sustained private capital investment into generation assets that will operate for 20 to 30 years. The terms on which that investment is offered, and the confidence investors can have that those terms will be fairly administered, are determinative of whether that capital arrives at all, and at what cost.

We make four policy recommendations for inclusion in the final NESP 2026. Each addresses a specific gap in the current regulatory architecture for IPPs. Together they form a coherent framework for ensuring that Bermuda's energy policy is as fair to generators as it is to consumers — which is, in the long run, the only way to protect consumers from the cost consequences of inadequate generation investment.

## 2. The Policy Gap: IPPs in Bermuda's Regulatory Architecture

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## 2.1 What NESP 2026 Gets Right

The NESP 2026 correctly identifies the core challenge facing Bermuda's electricity sector: delivering an affordable, reliable, and clean energy supply on an isolated island grid with no interconnection to neighbouring systems, limited land, and a small population base. The policy's technology-neutral, evidence-based approach to evaluating future investments is pragmatic and appropriate. Its three-test framework — affordability, reliability, equitable access — provides a sound analytical foundation.

The policy also correctly identifies that the expansion of distributed generation has created structural pressures on BELCO's revenue base, and that tariff design must evolve to ensure grid-reliant consumers are not disadvantaged as the generation mix changes. These are genuine and important issues that the policy addresses thoughtfully.

## 2.2 What Is Missing

The policy's analytical lens is almost entirely consumer-facing and utility-facing. It does not address the perspective of independent generators — the private investors who will finance, build, and operate the new renewable capacity that the policy envisions.

Specifically, NESP 2026 does not:

- Acknowledge that the commercial terms offered to IPPs are as important to Bermuda's energy future as the terms offered by BELCO to consumers.
- Address the structural asymmetry between BELCO's annually reviewed, RA-administered revenue allowance and the fixed, unreviewed commercial terms to which bulk generation licensees are typically subject.
- Commit to minimum standards for the commercial terms of future power purchase agreements, including inflation protection and periodic review rights.
- Acknowledge that past procurement processes have in some instances produced commercial outcomes for IPPs that are not sustainable over a 20-year asset life, and that this creates an investment deterrence risk going forward.
- Propose any mechanism by which the regulatory framework can respond when a licensed generator's commercial terms become insufficient to maintain the asset in serviceable condition.

These are not abstract concerns. They directly affect the viability of the renewable energy programme NESP 2026 proposes. Every prospective IPP developer evaluating Bermuda — whether for solar, battery storage, offshore wind, or emerging technologies — will assess the jurisdiction's track record of treating its existing generators fairly. A policy that is silent on this question is, in effect, sending a message by omission.

## 3. The Investment Case for IPP Regulatory Reform

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### 3.1 How Developers Evaluate Regulatory Risk

Private capital investment in energy infrastructure is long-term and irreversible. A generation asset built today will operate for 20 to 30 years. The return on that investment depends almost

entirely on the revenue stream over that period — which in Bermuda means the terms of a power purchase agreement with BELCO, the sole transmission and distribution licensee.

Experienced infrastructure investors conduct detailed regulatory due diligence before committing capital to any jurisdiction. The questions they ask include:

- Are the commercial terms of the PPA structured to remain viable over the full asset life, accounting for inflation and operating cost growth?
- If the commercial terms prove insufficient, is there a regulatory mechanism to seek review and adjustment?
- How has the jurisdiction treated existing IPPs who have encountered commercial difficulty?
- Is the regulatory framework designed to protect generator viability, or only consumer affordability?

Bermuda's answers to these questions, as reflected in the current regulatory framework and the NESP 2026 draft, are not competitive. A jurisdiction that offers no inflation protection on IPP rates, no periodic review mechanism, and no regulatory recourse when commercial terms become unviable will be priced at a significant risk premium by sophisticated developers — if they engage with it at all.

### 3.2 The Deterrence Effect of Historical Precedent

Developers evaluating new opportunities in Bermuda will not assess the regulatory framework in the abstract. They will look at how existing IPP investors have been treated in practice — specifically, whether the framework has produced fair and sustainable commercial outcomes over time.

Where a procurement process has produced commercial terms that proved inadequate over the asset life — whether because the rate was set too low, because inflation was not accounted for, or because market conditions changed — the critical question for future developers is not whether the original process was well-designed. It is whether the regulatory framework contains mechanisms to identify and correct such outcomes, and whether those mechanisms are actually used.

A framework that produces commercially unviable outcomes and offers no correction mechanism sends a clear signal: the regulatory risk in Bermuda is asymmetric. Consumers are protected; generators are not. That signal, once established by observable precedent, is very difficult to reverse. It raises the cost of capital for every future IPP transaction in the jurisdiction, because the risk premium developers apply reflects not just the specific terms of each new deal, but the framework within which those terms will be administered over decades.

### 3.3 The Offshore Wind Inflection Point

Bermuda is at a critical inflection point. The RA is actively procuring the island's first offshore wind project — a transaction that will require private capital commitment of a scale significantly larger than any previous IPP investment in Bermuda. The developers who respond to that procurement will make their investment decisions based on a comprehensive assessment of Bermuda's regulatory environment.

NESP 2026, as the Government's definitive statement of energy policy for the next two decades, will be read carefully by those developers. A policy that addresses consumer protection, grid reliability, and technology selection — but is silent on IPP commercial viability,

regulatory equity, and the treatment of historical procurement outcomes — will be noted. Sophisticated developers will draw their own conclusions about what that silence means.

Conversely, a NESP 2026 that includes explicit policy commitments on IPP regulatory equity, minimum PPA standards, and the correction of historically inadequate procurement outcomes would send a directly positive signal at the most important moment in Bermuda's offshore wind procurement. It would demonstrate that Bermuda's regulatory institutions are capable of fair, adaptive, and long-term thinking about the generator relationships on which the energy transition depends.

## 4. Policy Recommendations

We make four recommendations for the final NESP 2026. They are sequenced from the most foundational (the policy framework) to the most structural (the legislative underpinning).

### **POLICY RECOMMENDATION 1: Add Generator Viability as a Fourth Standing Policy Pillar**

NESP 2026 currently evaluates all energy sector decisions against three non-negotiable tests: affordability for consumers, reliability of supply, and equitable access. We recommend the addition of a fourth standing principle: generator viability and investment sustainability.

This principle would require that policy decisions consider whether the commercial terms offered to IPPs are sufficient to sustain asset performance over the contracted term and to attract future private investment into generation capacity.

This does not mean subsidising generators or guaranteeing returns. It means ensuring that the regulatory framework does not systematically disadvantage generators relative to the regulated utility — and that where commercial terms prove inadequate over time, there is a structured mechanism to identify and address that inadequacy.

The inclusion of this principle as a standing pillar of NESP 2026 would for the first time establish, at the level of national energy policy, that generator viability is a first-order concern alongside consumer protection.

### **POLICY RECOMMENDATION 2: Commit to Mandatory Minimum PPA Standards for Future Bulk Generation Licences**

NESP 2026 should include an explicit policy commitment that all future power purchase agreements for bulk generation licensees will be required to meet minimum commercial standards as a condition of licence. These standards should include:

- (a) An automatic inflation escalation mechanism linked to a recognised index, applied to the base offtake rate on an annual basis;
- (b) A formal periodic rate review right at intervals not exceeding five years, administered by the Regulatory Authority using a transparent, evidence-based methodology consistent with the principles applied to BELCO's retail tariff;

(c) A minimum term viability assessment at the point of licence award, demonstrating financial sustainability over the full projected asset life.

These standards address the root cause of commercially unviable IPP arrangements: rates set at a single point in time, without inflation protection, expected to remain adequate over a multi-decade asset life. No such expectation is applied to BELCO's rate structure, and there is no principled reason it should be applied to independent generators.

The Regulatory Authority has power under existing legislation to implement these standards by General Determination. The NESP 2026 should provide the policy direction to do so.

### **POLICY RECOMMENDATION 3: Establish a Policy Commitment to Regulatory Equity Between BELCO and IPPs**

NESP 2026 should include an explicit policy statement that the regulatory framework governing Bermuda's electricity sector will operate on a principle of regulatory equity between the regulated utility and independent power producers.

In practical terms, this means:

- (a) IPPs should have access to periodic cost and revenue reviews on a comparable basis to the annual BELCO retail tariff review, proportionate to their scale and licence terms.
- (b) The regulatory framework should contain mechanisms to identify and respond to commercially unviable IPP arrangements before they result in asset degradation or investor loss — not after.
- (c) The Regulatory Authority should be expressly directed to consider the commercial sustainability of licensed generators, not only the interests of end consumers, as part of its ongoing regulatory mandate.

BELCO President Wayne Caines has publicly stated that equitable regulation should extend to all sources of electricity generation, including solar photovoltaic. The Government's own energy policy should reflect this principle explicitly. NESP 2026 is the appropriate vehicle to do so.

### **POLICY RECOMMENDATION 4: Direct Legislative Review to Address Historical Procurement Outcomes**

NESP 2026 should acknowledge that past procurement processes — conducted under earlier, less developed regulatory frameworks — may have produced commercial terms for IPPs that are not sustainable over the full asset life, and that the absence of correction mechanisms in the current regulatory architecture leaves both investors and the Government without adequate tools to address these situations.

The policy should commit to a targeted review of the Electricity Act 2016, to be conducted in parallel with the next IRP update, with the objective of introducing:

- (a) An explicit RA power to conduct viability reviews of existing bulk generation PPAs upon application by a licensee, subject to a high evidentiary threshold based on audited operational cost data;
- (b) An RA power to direct the TD&R licensee to enter good-faith renegotiation with a generator where a viability review establishes commercial insufficiency;
- (c) A standing obligation on the RA to assess the commercial viability of all bulk generation licensees at each IRP review cycle, with findings reported to the Minister.

This commitment does not predetermine outcomes in any specific case. It establishes that the policy framework recognises the problem, commits to providing the tools to address it, and holds the regulatory framework accountable for delivering those tools in a defined timeframe.

## 5. The Equity Argument

NESP 2026 places significant emphasis on equity — ensuring that the benefits and costs of the energy transition are fairly distributed across Bermuda's population. We strongly support this emphasis. But the policy applies the equity lens in only one direction: toward consumers and households.

A complete equity framework for an energy sector in transition requires that fairness be applied to all participants — including the independent generators who are being asked to invest private capital in Bermuda's future. The following comparison illustrates the current asymmetry:

Dimension	BELCO	Bulk Generator IPPs
Revenue review	Annual — RA-administered	None — PPA term is fixed
Inflation protection	Full — quarterly fuel cost pass-through	None in current PPA structures
Cost recovery	Guaranteed recovery of efficient costs	No guarantee beyond fixed contract rate
Regulatory recourse	Annual formal process with full cost submission	No established pathway
Policy recognition	Extensively addressed in NESP 2026	Not addressed in NESP 2026

This asymmetry is not the result of deliberate policy design. It is a product of a regulatory framework built around a single utility provider at a time when independent generation was nascent. NESP 2026 is the opportunity to correct it. The correction does not require redistributing value from consumers to generators. It requires building a framework in which the commercial terms on which generators invest are administered with the same rigour, transparency, and fairness as the commercial terms on which consumers receive service.

## 6. Conclusion

NESP 2026 sets out a serious and largely well-judged framework for Bermuda's energy transition. It is honest about the island's constraints and pragmatic about the pace and direction of change. We support its core architecture.

The additions we recommend — a fourth policy pillar for generator viability, mandatory minimum PPA standards, an explicit equity commitment between BELCO and IPPs, and a legislative

review to address historical procurement outcomes — do not change the direction of NESP 2026. They strengthen its foundation.

Bermuda cannot achieve any renewable energy target, at any pace, without private capital investment in generation assets. That capital will not flow, or will only flow at punishing cost, if the regulatory framework is perceived as systematically biased in favour of the regulated utility and against independent generators. The question NESP 2026 must answer is not only how to protect consumers from the costs of the energy transition, but how to create a regulatory environment in which the investors needed to finance that transition can commit with confidence that their investments will be commercially sustainable.

We urge the Ministry to use the final NESP 2026 to answer that question clearly and affirmatively.

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