

(27 May 2016 – to date)

## **ELECTRICITY REGULATION ACT 4 OF 2006**

*Government Notice 660 in Government Gazette 28992, dated 5 July 2006. Commencement date: 1 August 2006 – unless otherwise indicated [Proc. R30, Gazette No. 9057, dated 21 July 2006].*

### **ADDITIONAL 600MW GAS PROGRAMME 2016**

#### **DETERMINATION UNDER SECTION 34(1) OF THE ELECTRICITY REGULATION ACT, 2006 (ACT NO. 4 OF 2006)**

*Government Notice 602 in Government Gazette 40023 dated 27 May 2016. Commencement date: 27 May 2016.*

The Minister of Energy ("the Minister"), in consultation with the National Energy Regulator of South Africa ("NERSA"), acting under section 34(1) of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) (as amended) and the Electricity Regulations on New Generation Capacity (published as GNR. 399 in *Government Gazette* No. 34262 dated 04 May 2011) ("Regulations"), has determined as follows:

1. that new generation capacity is needed to contribute towards energy security, including 600 megawatts (MW) to be generated from gas, which represents part of the 948 MW of capacity allocated to "Gas CCGT (natural gas)", under the heading "New build", for the year 2030, in Table 3 of the Integrated Resource Plan for Electricity 2010-2030 (published as GN 400 of 06 May 2011 in *Government Gazette* No. 34263) ("IRP 2010-2030") ("new generation capacity");
2. notwithstanding that the IRP 2010-2030 appears to primarily contemplate LNG as the potential source of natural gas for power generation and indicated (amongst other things) that other sources still require further research, the new generation capacity determined as necessary in paragraph 1 above, may be generated from any gas type or source (including natural gas delivered to the power generation facility by any method including by pipeline from a natural gas field or elsewhere or an LNG based method; coal bed methane; synthesis gas or syngas; above or underground coal gasification; Shale Gas and any other gas type or source as may be considered appropriate by the procurer), and may be generated using any appropriate technology, notwithstanding that the IRP 2010-2030 may not have contemplated such technology or have considered it viable;
3. the electricity produced from gas as described in paragraphs 1 and 2 above ("the electricity") shall be procured through one or more IPP procurement programmes as contemplated in the Regulations, which may include, where appropriate and having regard to all relevant circumstances for some or all of the electricity procured pursuant to this Determination, tendering processes, direct negotiation with one or more project developers, or other procurement procedures ("procurement programmes");

4. the procurement programmes shall target connection to the Grid for the new generation capacity as soon as reasonably possible, taking into account all relevant factors including the time required for procurement, according to a schedule that may differ from the timetable set out in Table 3 of the IRP 2010-2030;
5. the new generation capacity shall be supplied into the transmission network in the area between Ankerlig Power Station and Saldanha and] *[sic]* shall be established by one or more independent power producer/s procured by the procurer through the procurement programmes which programmes may, in the discretion of the procurer include as a requirement that one or more State-Owned Company/ies participate as minority strategic partner/s in any such independent power producer;
6. the electricity may only be sold to the entity designated as the buyer in paragraph 9 below, and only in accordance with the power purchase agreements and other project agreements to be concluded in the course of the procurement programmes, provided that this shall not preclude multi-buyer agreements or arrangements in terms of which, by agreement with the buyer, the electricity is sold to both the buyer and one or more third parties or related parties;
7. the procurer in respect of the procurement programmes will be the Department of Energy;
8. the role of the procurer will be to conceptualise and conduct the procurement programmes including preparing, evaluating and making procurement decisions regarding any requests for information, requests for qualification, requests for proposal and/or all related and, associated documentation; preparing and negotiating any strategic partnership documentation; preparing and negotiating the power purchase agreements; preparing and negotiating or facilitating as applicable the other project agreements, and facilitating the satisfaction of any conditions precedent to financial close which are within its control;
9. the electricity shall be purchased by Eskom Holdings SOC Limited (as the "buyer") or any successor entity to be designated by the Minister of Energy, as the buyer; and
10. a power purchase agreement must be concluded between the independent power producer/s and the buyer regarding the terms of the purchase and sale of electricity, which agreement must meet the requirements of regulation 9 of the Regulations.

*Concurrence to this Determination given by the National Energy Regulator of South Africa on the below mentioned date:*

Signed: \_\_\_\_\_

**MR JACOB MODISE**

*Determination made by the Minister of Energy on the below mentioned date:*

Signed: \_\_\_\_\_

**MS TINA JOEMAT-PETTERSSON, MP**

**CHAIRPERSON: NERSA**

**DATE: 11/05/2016**

**MINISTER: ENERGY**

**DATE: 22/03/2016**