
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS


DEPARTMENT OF ENERGY

NO. R. 1366

04 NOVEMBER 2016

**ELECTRICITY REGULATION ACT, 2006
AMENDMENT OF THE ELECTRICITY REGULATIONS ON NEW
GENERATION CAPACITY, 2011**

I, Tina Joemat-Pettersson, Minister of Energy, acting in terms of section 35(4) of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), hereby amend the Electricity Regulations on New Generation Capacity published by Government Notice R. 399 in Government *Gazette* 34262 of 4 May 2011, as set out in the Schedule hereto.



Ms Tina Joemat-Pettersson
Minister of Energy
Date

- (c) the substitution for the definition of “Independent Power Producer” or “IPP” of the following definition:

“**Independent Power Producer**” or “**IPP**” means any person in which the Government or any organ of state does not hold a controlling ownership interest (whether direct or indirect), which undertakes or intends to undertake the development or creation of new generation capacity pursuant to a determination made by the Minister in terms of section 34(1) of the Act;”;

- (d) the insertion after the definition of “Independent Power Producer” or “IPP” of the following definition:

“**interconnected distribution power system**” means a distribution power system that is interconnected to a transmission power system either directly or through interconnection to another distribution power system where the latter system is directly or indirectly interconnected to a transmission power system;”;

- (e) the insertion after the definition of “national transmission company” or “NTC” of the following definition:

“**national transmission power system**” means the interconnected transmission power system used for the supply of electricity to customers across the territory of the Republic;”.

- (f) the substitution for the definition of “new generation capacity” of the following definition:

“**new generation capacity**” means electricity or electricity capacity sold or made available, or generation capacity connected, to the national transmission power system or an interconnected distribution power system, pursuant to a determination in terms of section 34(1) of the Act, which is derived from—

- (a) new generation facilities;
- (b) an expansion of existing generation facilities;
- (c) existing generation facilities not previously supplying electricity to the national transmission power system or an interconnected distribution power system;
- (d) existing generation facilities through an extension of any existing agreement for the purchase of electricity capacity or electricity for an additional supply period to be defined in the power purchase agreement, or through entering into a new power purchase agreement for a supply period to be defined in terms of such new power purchase agreement; or
- (e) demand side reduction measures, including aggregation, management of demand side reduction, or energy efficiency measures;”.

(h) the insertion after the definition of “new generation capacity project” of the following definition:

“**new generation facilities**” means generation facilities that are in operation on or immediately after the date of the relevant determination in terms of section 34(1) of the Act;”.

- (i) the substitution for the definition of “power purchase agreement” or “PPA” of the following definition:

“**power purchase agreement**” or “**PPA**” means an agreement **[concluded between a generator and the buyer]** for the sale and purchase of new **[electricity]** generation capacity **[or electricity derived there from, or both]**”; and

- (j) the insertion after the definition of “Public Finance Management Act” of the following definition:

“**seller**” means a person who concludes a power purchase agreement with a buyer in terms of which such person undertakes to sell or make available new generation capacity to the buyer;”.

Amendment of regulation 2 of the Regulations

3. Regulation 2 is hereby amended by the substitution for sub-regulation (2) of the following sub-regulation:

“(2) These Regulations do not apply to the purchase of new **[electricity]** generation capacity **[and electricity]** by persons other than organs of state.”.

Amendment of regulation 3 of the Regulations

4. Regulation 3 is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) the regulation of entry by a buyer and a **[generator]** seller into a power purchase agreement;”.

Amendment of regulation 5 of the Regulations

5. Regulation 5 is hereby amended by —

(a) the substitution in sub-regulation (2) for paragraph (b) of the following paragraph:

“(b) the proposed allocation of financial, technical and operational risk between the prospective buyers and the **[generator]** seller, and between the **[generator]** seller and the NTC or the distributor, as the case may be;”; and

(b) Substitution in sub-regulation (2) for paragraph (e) of the following paragraph:

“(e) whether the appropriate **[generator]** seller should be Eskom as part of its services as the national electricity producer, another organ of state or an **[1PP]** IPP.”.

Amendment of regulation 8 of the Regulations

6. Regulation 8 is hereby amended by the substitution for sub-regulation (2) of the following sub-regulation:

“(2) The procurement process in respect of a cross border project shall be conducted with due regard to **[the]** any agreements, memoranda of understanding or arrangements referred to in regulation 6(4).”.

Amendment of regulation 9 of the Regulations

7. Regulation 9 is hereby amended by —

(a) the substitution in sub-regulation (1) for paragraph (b) of the following paragraph:

“(b) appropriate technical, operational and financial risk transfer to the **[generator] seller**”; and

(b) the substitution in sub-regulation (1) for paragraph (d) of the following paragraph:

“(d) satisfactory due diligence in respect of the buyer’s representative and the proposed **[generator] seller** in relation to matters of their respective competence and capacity to enter into the power purchase agreement.”.