

DEPARTMENT OF MINERAL RESOURCES AND ENERGY

NO. 6778

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DEPARTMENT OF ELECTRICITY AND ENERGY**ELECTRICITY REGULATION ACT, 2006****ELECTRICITY TRANSMISSION INFRASTRUCTURE REGULATIONS**

I, **KGOSIENTSHO RAMOKGOPA, MP**, Minister of Electricity and Energy, under section 35(4) of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), and after consultation with the National Energy Regulator of South Africa, hereby make the Regulations in the Schedule.



KGOSIENTSHO RAMOKGOPA, MP
Minister of Electricity and Energy

Date: 16/10/25

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SCHEDULE

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Definitions

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act has the same meaning so assigned and, unless the context otherwise indicates—

“buyer” means a person designated by the Minister as a buyer of electricity transmission infrastructure in a determination as contemplated in section 34(3)(d) of the Act;

“cross-border transmission capacity” means transmission capacity to be established in the Republic of South Africa, of which the infrastructure will be physically interconnected to transmission infrastructure in another jurisdiction;

“determination” means a determination made by the Minister in terms of section 34(1)(b) of the Act;

“emergency” means, for the purposes of regulation 4, a situation posing an imminent and material threat to grid stability or availability, security of supply, or public safety, where delays in transmission infrastructure procurement could result in severe economic, social, or environmental harm;

“IRP” means the integrated resource plan as defined in section 1 of the Act;

“national interest” means, for the purposes of regulation 4, strategic priorities aimed at safeguarding the Republic of South Africa’s security of supply, energy transition, economic stability, or compliance with binding international commitments;

“private party” means a person, consortium or joint venture in which the Government of the Republic of South Africa, or any other organs of state, or both, do not hold a controlling ownership interest;

“procurer” means a person designated by the Minister in a determination, as being responsible for conducting a procurement process as contemplated in section 34(3)(f) of the Act;

“TDP” means the transmission development plan as defined in section 1 of the Act;

“the Act” means the Electricity Regulation Act, 2006 (Act No. 4 of 2006);

“transmission capacity” means—

- (a) the electricity transmission infrastructure identified in a determination; and
- (b) associated activities specified in a determination, including the design, construction, funding, management, maintenance or operation of such electricity transmission infrastructure;

“transmission service provider” means a private party appointed pursuant to a procurement process conducted in accordance with a determination, to establish transmission capacity which will be purchased by a buyer or made available to a user;

“transmission services agreement” means an agreement entered into between a buyer and a transmission service provider providing for their respective rights and obligations in respect of the transmission capacity to be provided by the transmission service provider;

“TSO SOC” means the Transmission System Operator SOC Ltd as defined in section 1 of the Act and, for the period prior to establishment of Transmission System Operator SOC Limited, the National Transmission Company South Africa SOC Limited; and

“user” means a person designated by the Minister as a user of electricity transmission infrastructure in a determination as contemplated in section 34(3)(d) of the Act.

Application of Regulations

2. (1) These Regulations apply to—

- (a) buyers, users and procurers;
- (b) transmission service providers; and
- (c) the Minister, the Minister of Finance, the Department of Electricity and Energy and the Regulator.

(2) These Regulations do not apply to—

- (a) the establishment of new electricity transmission infrastructure by TSO SOC, which is not subject to a determination;
- (b) the procurement of transmission capacity by TSO SOC, which is not subject to a determination; and
- (c) the performance by TSO SOC of the functions assigned to it in terms of section 34B of the Act.

(3) Where a buyer is designated as a procurer in a determination, reference to the procurer in these Regulations shall, with the necessary changes applicable, be interpreted as reference to that buyer in that buyer's capacity as procurer.

Objects of Regulations

3. The objects of the Regulations are to—

- (a) facilitate planning for the procurement and establishment of transmission capacity by private parties in order to expedite the establishment of new electricity transmission infrastructure;

- (b) support measures to enhance the reliability and security of the national transmission power system;
- (c) facilitate electricity generation connection into the transmission power system; and
- (d) ensure consistency and predictability in the implementation of section 34(1)(b) of the Act.

Deviation from IRP or TDP

4. (1) The Minister must, when making a determination, consider the following factors:

- (a) The contents of the IRP and TPD, including—
 - (i) the extent to which the IRP or TDP identifies transmission capacity requirements, including the impact, feasibility and readiness; and
 - (ii) the key components of the electricity transmission infrastructure that is necessary for the purposes of establishing the required transmission capacity;
- (b) whether an emergency necessitates a deviation from the IRP or TPD; and
- (c) whether the national interest necessitates a deviation from the IRP or TPD.

(2) If the Minister, after a consideration of the factors listed in subregulation (1), intends to make a determination which deviates from the IRP or

TDP, the Minister must, subject to section 34(8) of the Act, publish a notice in the *Gazette* that—

- (a) includes the reasons for the proposed deviation; and
- (b) invites the public to comment, during the period specified in the notice, on the proposed deviation.

(3) The Minister must consider any comments received from the public as contemplated in subregulation (2)(b), and compile a summary of the comments received and the responses thereto.

(4) A determination made in terms of this Regulation that relates to transmission capacity as identified in the TDP is considered to be consistent with the TDP even if it reduces the anticipated timeframe for the establishment of that transmission capacity.

Consultation procedure

5. (1) For purposes of prior consultation in terms of section 34(1) of the Act, the Minister must, in writing, submit to the Regulator and the Minister of Finance—

- (a) the terms of the proposed determination, as contemplated in section 34(3) and 34(4) of the Act, and additional information on—
 - (i) any feasibility study conducted in terms of regulation 7; and
 - (ii) any other activity the Minister intends to undertake to give effect to the determination, referred to in section 34(9) of the Act;
- (b) reasons for a deviation from the IRP or TDP if applicable, and the summary referred to in subregulation 4(3); and

(c) the proposed date for publication of the determination and, if available, an indicative timeframe for the establishment of the selected transmission capacity. Pippa, please look into this.

(2) The Regulator and the Minister of Finance must provide written comments to the Minister within 30 days of receipt of the submissions referred to in subregulation (1) or such other period as agreed to by the Minister, Minister of Finance and the Regulator.

(3) Once in receipt of the written comments referred to in subregulation (2), the Minister must consider the comments and, as soon as is practicable, finalise the determination.

Determinations

6. (1) The Minister must, in a determination in terms of section 34(3) of the Act—

- (a) identify the transmission capacity required;
- (b) specify the identity of the buyers, users, and procurers, where applicable, for the transmission capacity required; and
- (c) specify the responsibilities of the procurer, which may include the preparation, management and implementation of activities required for the procurement of transmission capacity, including negotiation of the applicable transmission services agreements.

(2) If the Minister makes a determination in respect of transmission capacity in respect of which the TSO SOC has undertaken management or development activities prior to the date of publication of the determination in the

Gazette, the TSO SOC must provide the procurer with information relating to such management or development activities, and cooperate with the procurer where necessary, in relation to the procurement process for such transmission capacity.

(3) A determination is binding including on the buyer, user and procurer stipulated in such determination, and such buyer, user and procurer must comply with the terms of the determination and do all that is necessary to implement such determination timeously.

(4) The buyer or user is bound by the outcome of a procurement process conducted by the procurer in accordance with a determination and must do all that is necessary to give effect thereto, and conclude the transmission services agreement with the appointed transmission service provider.

Feasibility studies

7. (1) The Minister may designate an official or unit from the Department of Electricity and Energy to conduct a feasibility study or cause the appointment of a service provider to conduct such feasibility study, in respect of the rationale for a proposed determination for transmission capacity.

(2) A procurer may conduct a feasibility study or appoint a service provider to conduct such feasibility study in respect of transmission capacity which is the subject of a determination.

(3) A feasibility study referred to in subregulation (2) may address one or more of the following elements:

- (a) The technical and market requirements in respect of the transmission capacity;
- (b) the anticipated costs of the transmission capacity;

- (c) the proposed allocation of key financial, technical and operational risks between the prospective buyer and user and the transmission service provider; and
- (d) the legal, financial, environmental and land use considerations, including the permits, consents or authorisations that will be required in order to establish the transmission capacity.

Cross-border transmission capacity

8. (1) A determination may require or contemplate that cross-border transmission capacity be established, provided the Minister is satisfied that adequate agreements, memoranda of understanding or other arrangements are in place or will be in place between the Government and the relevant foreign government or utility or international organisation, as are necessary to enable the establishment of the transmission capacity in question.

(2) In making a determination that cross-border transmission capacity be established, the Minister must have regard to the applicable regional electricity frameworks.

(3) Where a determination requires or contemplates that cross-border transmission capacity be established, the procurement process shall be planned and conducted with due regard to any agreements, memoranda of understanding or other arrangements referred to in subregulation (1).

Transmission services agreements

9. (1) Before a buyer enters into a transmission services agreement, the procurer must ensure that the transmission services agreement—

- (a) represents value for money, in that it results in a net benefit to the buyer and user or to the Government, having regard to cost, quality, quantity, risk transfer, social and economic benefit, or a combination thereof;
- (b) transfers appropriate technical, operational and financial risks to the transmission service provider;
- (c) contains effective mechanisms for the implementation, management, enforcement and monitoring of the transmission services agreement; and
- (d) permits adequate due diligence by the buyer or user, as the case may be, in respect of the transmission service provider's competence and capacity to meet its obligations in terms of the transmission services agreement.

(2) A buyer must cooperate in good faith with the procurer and any transmission service provider to ensure that the respective rights and obligations of the buyer, the user, where applicable, and a transmission service provider are comprehensively provided for in the transmission services agreement in a manner which maximises coordination and efficacy in the national interest.

(3) For purposes of subregulation (2), the buyer or user must provide the procurer and transmission service provider with such information, and access to the transmission power system, as necessary.

Cost recovery

10. (1) The Regulator shall, when determining licence conditions relating to the setting or approval of prices, charges, rates and tariffs charged by licensees and when setting or approving a transmitter's tariffs, ensure that the buyer is able to recover, at least, the full amount of the costs incurred in the following categories:

- (a) the development and preparation costs incurred in relation to transmission capacity which is the subject of a determination;
- (b) annuity payments or other compensation paid by the buyer in respect of transmission capacity, as provided for in a transmission services agreement;
- (c) reimbursement to the transmission service provider for costs incurred for acquisition of servitudes and similar rights, if applicable;
- (d) any other payments made by the buyer in terms of a transmission services agreement, provided the buyer or user acted in accordance with its contractual rights and obligations;
- (e) the costs efficiently incurred in administering, managing and reporting on a transmission services agreement;
- (f) the costs arising from the termination of a transmission services agreement; and
- (g) other costs efficiently incurred for purposes of giving effect to a determination.

(2) The buyer may request the Regulator to confirm the categories of costs which will be recoverable by the buyer, before entry into a transmission services agreement, and the Regulator must respond within 30 days.

(3) The buyer must, upon request, provide the Regulator with such information as is reasonably required by the Regulator for purposes of finalising the cost recovery assurance letter.

Exemptions

11. (1) The Minister may—

- (a) by notice in the *Gazette*;
- (b) after conducting a notice and comment process;
- (c) where justifiable having regard to all the circumstances;
- (d) in relation to specific transmission capacity or a specific determination; and
- (e) subject to any terms and conditions that he or she considers appropriate, exempt any person from complying with any provision of these Regulations, for the period specified in the notice referred to in subregulation 1(a).

(2) Any person may apply, in writing, to the Minister, for an exemption contemplated in subregulation (1), and include in the application—

- (a) details of the person to whom the exemption will apply;
- (b) which provisions of the Regulations for which exemption from compliance is sought;
- (c) the reasons for requesting an exemption from those provisions of the Regulations; and
- (d) the measures that the person will implement to mitigate any risks that may arise as a result of non-compliance with the applicable provisions of the Regulations.

(3) The Minister may, by notice in the *Gazette*, amend or revoke an exemption granted in terms of this regulation, after consultation with affected persons,

if the continued operation of that exemption is likely to cause harm to the security of energy supply in the Republic.

(4) Notwithstanding subregulation (1), no person may be exempted from complying with any provision of the Act.

Short title and commencement

12. These Regulations are called the “Electricity Transmission Infrastructure Regulations” and will come into effect on the date of publication in the *Gazette*.