

(20 April 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].

COAL FROM CROSS BORDER PROJECTS IPP PROCUREMENT PROGRAMME 2015

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

Government Notice 454 in Government Gazette 39940 dated 20 April 2016. Commencement date: 20 April 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) (“the ERA”) 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 energy generation capacity is needed to contribute towards energy security, including 3750 megawatts to be generated from Coal, from cross border projects which represents the capacity allocated to “Coal (PF, FBC, Imports)”, under the heading “New build”, for the years 2025 to 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”);
2. electricity produced from cross border projects as described above (“the electricity”), shall be procured through one or more IPP procurement programmes as contemplated in the Regulations, which may, where appropriate and having regard to all relevant circumstances including the urgent need to secure connection to the Grid as soon as possible for the power procured pursuant to this Determination, include tendering processes, direct negotiation with one or more project developers, or other procurement procedures including those undertaken in the host country by or in conjunction with a third party (“procurement programmes”);
3. 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;
4. the electricity may only be sold to the entity designated as the buyer in paragraph 8 below, and only in accordance with the power purchase agreements and other project agreements to be concluded in the

Prepared by:

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;

5. no power purchase agreement in respect of electricity from a cross border project shall be entered into unless adequate agreements, memoranda of understanding or arrangements are in place between the Government and the relevant foreign government or international organisation, as are necessary to enable such cross border project;
6. the procurer in respect of the procurement programmes will be the Department of Energy;
7. the role of the procurer will be to conceptualise and conduct the procurement programmes, including preparing any requests for information, requests for qualification, requests for proposals and/or all related and, associated documentation, negotiating the power purchase agreements, facilitating the conclusion of the other project agreements, and facilitating the satisfaction of any conditions precedent to financial close which are within its control;
8. the electricity must be purchased by Eskom Holdings SOC Ltd or by any successor entity to be designated by the Minister of Energy, as buyer (off-taker); and
9. the electricity must be purchased from independent power producers.

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

SIGNATURE: _____

MR JACOB MODISE

CHAIRPERSON: NERSA

DATE:

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

SIGNATURE: _____

MS TINA JOEMAT-PETTERSSON, MP

MINISTER: ENERGY

DATE: