

(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].

RENEWABLE ENERGY (SOLAR PARK) PROGRAMME 2016: DETERMINATION UNDER SECTION 34(1) OF THE ELECTRICITY REGULATION ACT, 2006 (ACT NO. 4 OF 2006)

Government Notice 603 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) ("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 renewable energy generation capacity is needed to contribute towards energy security and to facilitate achievement of the renewable energy targets of the Republic of South Africa, including 1500 megawatts (MW) to be generated from solar technologies, which represents the capacity allocated to "Solar PV", under the heading "New build", for the years 2026 to 2028, 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") ("the new generation capacity");
2. notwithstanding that the capacity allocation from the IRP 2010-2030 referred to above is for solar photovoltaic technology, the new generation capacity determined as necessary in paragraph 1 above, may be generated by any solar technology that the procurer designated in paragraph 7 may consider appropriate and may include storage solutions, notwithstanding that the IRP 2010-2030 may not have contemplated such technology or have considered it viable;
3. the electricity produced from solar technologies as described in paragraphs 1 and 2 above ("the electricity") shall be generated from projects located within one or more Solar Park/s situated in the Northern Cape and 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 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, which may include: undertaking any land development activities associated with the Solar Park/s which it considers necessary for the purposes of developing the procurement programmes, including but not limited to identifying the appropriate location of the Solar Park/s, facilitating the acquisition of property rights including ownership or leasehold in the relevant land, applying for all relevant authorisations and approvals and undertaking the studies associated with such applications and the land development activities in general; 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
CHAIRPERSON: NERSA
DATE: 11/05/2016

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

Signed: _____

MS TINA JOEMAT-PETTERSSON, MP
MINISTER: ENERGY
DATE: 22/03/2016