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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF MINERAL RESOURCES AND ENERGY

NO. 374

23 April 2021

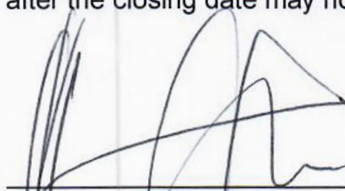
ELECTRICITY REGULATION ACT, 2006

LICENSING EXEMPTION AND REGISTRATION NOTICE

I, Gwede Mantashe, the Minister of Mineral Resources and Energy, hereby:-

- (a) under section 36(4) of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) ("the Act"), and after consultation with the National Energy Regulator ("Regulator") and any person who may be affected, intend to amend Schedule 2 to the Act by substituting it with the Schedule ("the Schedule 2") set out in the Annexure hereto; and
- (b) under section 9(1) of the Act, and in consultation with the Regulator, intend to increase the threshold for embedded generation from 1MW to 10MW and determine that a person who operates a generation facility contemplated in items 3.1, 3.2, 3.3, 3.4 or a person who performs the activities of a reseller as contemplated in item 3.7 of the Schedule, must register with the Regulator.

Interested persons and organisations are invited to submit, within 30 days, written comments on the proposed amendments to the Licensing Exemption and Registration Notice to the Director-General, Department of Mineral Resources and Energy, Private Bag X96, Pretoria 0001; Matimba House 192 Visagie Street, Pretoria; or email to Matthews Bantsijang. (Email Address: Matthews.Bantsijang@dmre.gov.za, telephone number: 012 406 4776). Comments received after the closing date may not be considered.



GWEDÉ MANTASHE, MP

Minister of Mineral Resources and Energy

31/03/2021

ANNEXURE**SCHEDULE 2****EXEMPTION FROM OBLIGATION TO APPLY FOR AND HOLD A LICENCE**

1. For purposes of items 2 and 3, unless defined in Chapter 1 (Section 1) of the Electricity Regulation Act:
 - 1.1 **“Capacity”** means, in respect of a Unit or the Facility, at any time and from time to time, the capacity (expressed in megawatts or MW) of such Unit, or the Facility, as the case may be, to generate and provide Energy to the Delivery Point;
 - 1.2 **“Code”** means the Distribution Code, the Transmission Grid Code or any other Code, approved by the Regulator;
 - 1.3 **“Connection agreement”** means an agreement detailing the conditions under which the Distributor or Transmitter intends to connect the customer. This agreement specifies the conditions applicable to an end-use customer or any other connection such as an Embedded Generator;
 - 1.4 **“Customer”** means a person or legal entity that has entered into an agreement with a Distributor or Transmitter for the provision of distribution or transmission services. An entity may be an Embedded Generator, another Distributor, an end-use customer (including generators), an international customer, a retailer or a reseller;
 - 1.5 **“Delivery Point”** means the physical point, situated on the Site of the Facility, where the energy output is to be delivered by the generator;
 - 1.6 **“Demonstration purposes”** means the Facility constructed for the purpose to prove or test commercial and or technical viability within a specified time period;
 - 1.7 **“Embedded Generator”** means a legal entity that operates one or more Unit(s) that is connected to the distribution system. Alternatively a legal entity that desires to connect one or more Unit(s) to the distribution system;
 - 1.8 **“End-use customer”** means a user of electricity connected to the distribution system;
 - 1.9 **“Facility”** means the generation (or distribution facility as applicable) located at the Site and comprising all plant, machinery and equipment, all associated buildings, structures, roads on the Site that are not national, provincial or municipal roads, and other appurtenances, together with all required interfaces to be constructed for the safe, efficient

and timely operation of that facility and, for the avoidance of doubt, excluding the transmission connection works or distribution connection works, as the case may be;

- 1.10 **"Point of Connection"** means the electrical node on a distribution or transmission system where a customer's assets are physically connected to the Distributor's or Transmitter's assets;
- 1.11 **"Property"** means:
- 1.11.1 a farm, agricultural holding, erf or sectional title unit; and
- 1.11.2 a building located on that farm, agricultural holding, erf or sectional title unit, notwithstanding that the building extends beyond the boundary of that farm, agricultural holding, erf or sectional title unit;
- 1.12 **"Related customers"** means customers which are related and inter-related to each other within the meaning contemplated in section 2 of the Companies Act, 2008 (Act No.71 of 2008);
- 1.13 **"Reseller"** means a person who purchases electricity from a trading entity in order to sell such electricity to a customer;
- 1.14 **"Site"** means the property upon which the Facility is to be constructed and operated;
- 1.15 **"Unit"** means a separate electricity generating unit or section (comprising multiple units) forming part of the Facility, which is or are capable of generating and delivering energy to the Delivery Point, and "Units" means all or any combination of them;
- 1.16 **"Waste"** has the same meaning as defined under section (1) of the National Environmental Management: Waste Act (Act No. 59, 2008);
- 1.17 **"Wheeling"** means providing access between an Embedded Generator (or a generator that is not owned by Eskom) and a third party to facilitate the trading of energy;
2. The following activities are exempt from the requirement to apply for, and hold a licence under the Act and these activities are not required to be registered with the Regulator-
- 2.1 The operation of a generation Facility for the sole purpose of providing standby or back-up electricity in the event of, for a duration no longer than, an electricity supply interruption.

- 2.2 The operation of any generation Facility provided that:
- 2.2.1 the Facility does not have a Point of Connection;
- 2.2.2 if the Facility has a capacity of no more than 100 kilowatts and has an existing Point of Connection, the Distributor (and not the Regulator) has prescribed the conditions relating to the continued use of the Point of Connection; and the Regulator has prescribed the manner in which the Distributor shall keep a register of each Facility.
3. The following activities are exempt from the requirement to apply for and hold a licence under the Act, but these activities must be registered with the Regulator;
- 3.1 The operation of a generation Facility which complies with the *Grid Connection Code for RPPs in South Africa - Version 2.8 (July 2014)* with a capacity of no more than **[10MW]** 10MW with a Point of Connection on the distribution power system, in circumstances in which-
- 3.1.1 the generation Facility supplies electricity to a customer who is an end-use customer and there is no wheeling of that electricity;
- 3.1.2 the generation Facility is operated to supply an end-use customer or related customers by wheeling; and
- 3.1.3 the generator has entered into a connection agreement with the holder of the distribution licence in respect of the power system over which the electricity is to be wheeled.
- 3.2 The operation of a generation Facility for demonstration purposes only, whether or not the Facility is connected to a transmission or distribution power system, in circumstances in which-
- 3.2.1 if the Facility is connected to the transmission or distribution power system, the generator has complied with the requirements of the Code; and
- 3.2.2 the Facility will be in operation for not more than 36 months.
- 3.3 The operation of a generation Facility where the electricity is produced from waste or the residual product of an underlying industrial process, in circumstances in which-
- 3.3.1 the generation Facility is operated solely to supply electricity for consumption by an end-use customer who is related to the generator or owner of the generation Facility within the meaning contemplated in section 2 of the Companies Act, 2008 (Act No. 71 of 2008); and

- 3.3.2 generation Facility complies with the Code;
- 3.4 The continued operation of an existing generation Facility which, immediately prior to the date of commencement of this Schedule, was exempt from the requirement to apply for and hold a licence under the Act, in circumstances in which-
 - 3.4.1 the generation Facility has complied with the Code and is connected to the transmission or distribution power system; and
 - 3.4.2 the generation Facility has filed for registration with the regulator within 6 months of commencement of the registration process by the Regulator.
- 3.5 The operation of a distribution Facility up to the Point of Connection that connects the generation Facility contemplated in items 3.1 to 3.4 -
 - 3.5.1 where there is conveyancing of electricity through the transmission or distribution power system.
- 3.6 The trading of electricity by a reseller in circumstances in which-
 - 3.6.1 the price charged by the reseller to customers does not exceed the tariff that would have been charged to such customers for the electricity if it had been purchased from the holder of a distribution licence for the area in which the electricity is supplied to the customer; and
 - 3.6.2 the reseller has entered into either a service delivery agreement in accordance with the Municipal Systems Act, (Act No 32 of 2000) (where the licensed distributor is a municipality) or a similar agreement with the distributor (where the licensed distributor is not a municipality) that regulates the relationship between the reseller and the holder of the distribution licence and the obligations of the reseller in respect of the quality of supply to customers; and the Regulator has ratified the general terms and conditions of such service delivery agreement.

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