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GENERAL NOTICE

NOTICE 139 OF 2009

Electricity Regulation

The Department of Minerals and Energy, hereby invite comments on the draft Electricity Regulations. All comments must be submitted to the Department in writing.

Comments can be hand-delivery, posted or e-mailed to the department not later than Friday, 13 March 2009.

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(For attention Mr M Ngobeni, E413)

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DEPARTMENT OF MINERALS AND ENERGY

No. R. [•]

[•] 2009

ELECTRICITY REGULATION ACT, 2006

ELECTRICITY REGULATION

I, Buyelwa P Sonjica, Minister of Minerals and Energy under section 35(4) of the Electricity Regulation Act, 2006 (Act No 4 of 2006), intend to make the regulations in the Schedule.

DEFINITIONS

In these Regulations, any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned and, unless the context otherwise indicates –

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

“**Buyer**” means any person or entity designated by the Minister in terms of Section 34(1)(c) and (d) and authorised under a trading licence;

“**Department**” means the Department of Minerals and Energy;

“**Eskom**” means Eskom Holdings limited;

“**Integrated resource plan**” means a resource plan established by the national sphere of government to give effect to national policy;

“**Minister**” means the Minister of Minerals and Energy;

“**Regulator**” means the National Energy Regulator of South Africa established in terms of the National Energy Regulator Act, 2004 (Act No. 40 of 2004);

“**System Operator**” means any person or entity licensed to be responsible for the short-term reliability of the interconnected power system within its control area, comprising the national transmission system, the NTC assets connected to national transmission system, the power stations connected to the national transmission system and international connectors, and for Central Dispatch.

SCHEDULE 1

- (1) The Minister hereby appoints the System Operator as the National Energy Planner (NEP) to carry out the national integrated resource planning process.
- (2) The process of developing the integrated resource plan shall comprise of the following steps:
 - a. Adoption of the planning assumptions;
 - b. Determination of the electricity load forecast;
 - c. Modelling and scenario planning based on the planning assumptions;
 - d. Adoption of a base plan derived from a least cost generation investment requirement;
 - e. Risk adjustment of the base plan based on (i) the most probable scenarios and (ii) government policy objectives for a diverse generation mix including renewable and alternative energies and energy efficiency;
 - f. Approval of the integrated resource plan;

- g. Gazetting of the approved integrated resource plan.
- (3) The Minister shall nominate the members of the NEP Advisory Committee comprising of representatives as follows:
- (a) Two (2) from government departments;
 - (b) One (1) from the System Operator;
 - (c) One (1) from academia;
 - (d) One (1) from the regulator.
- (4) Each member of the NEP Advisory Committee shall be entitled to nominate an alternate.
- (5) The NEP Advisory Committee shall be responsible for making recommendations to the Minister regarding the planning assumptions and the load forecast to be adopted for demand modelling purposes;
- (6) The System Operator shall be responsible for the modelling function;
- (7) The regulator shall issue rules relating to the keeping of relevant information and the rendering of returns by licensees pursuant to integrated resource planning.
- (8) The System Operator is obliged to provide the regulator with any information that the regulator might request;
- (9) The Minister shall approve the integrated resource plan and publish it in the government gazette.
- (10) The regulator may:
- (a) only issue generation licences in accordance with the approved integrated resource plan;
 - (b) subject to the Minister issuing a notice in the Government Gazette as contemplated in section 34 of the Act, instruct the Buyer to procure new generation capacity in accordance with the approved integrated resource plan.

SCHEDULE 2

The Electricity Regulation Act of 2006, requires each licensee to implement energy efficiency in its area of supply. The regulator in its tariff approval process, allows for energy efficiency provision for every licensee. In order to administer the implementation of energy efficiency initiatives at the distribution level:

Initiation of projects by licensees, end-users and energy services companies

- (1) A licensee shall submit a report detailing the projected amount of capacity (in kilowatts) and energy (in kilowatt-hours) saving to be achieved through their energy efficiency interventions, to the Department for consolidation and submission to the regulator.
- (2) Any end-user or energy services company may also initiate an energy efficiency project and submit a report detailing the projected amount of capacity (in kilowatts) and energy (in kilowatt-hours) saving to be achieved through their energy efficiency programme, to the Department for consolidation and submission to the regulator.
- (3) Energy efficiency projects contemplated under sub-regulations (1) and (2) include short term power purchases.

Energy efficiency and demand side management allowance in the tariff

- (4) When making a determination regarding the energy efficiency and demand side management allowance in the wholesale electricity tariff during the tariff approval process, the regulator shall take into account:
 - a. information relating to a realistic energy efficiency and demand side management savings target;
 - b. considerations relating to the electricity demand-supply balance submitted by the System Operator; and
 - c. any target set by the Minister for achieving energy efficiency and demand side management in accordance with section (19)(n) of the Energy Act, (Act 34 of 2008);

- (5) The regulator shall determine the financial value (the rebate) of each unit of energy and demand saving (in rand per kilowatt-hour and rand per kilowatt, respectively) and forward it to the Department for publication.

Verification and publication of energy efficiency statistics

- (6) The regulator shall issue rules regarding:
- i. The appointment of an independent person to measure and verify the kilowatt and kilowatt-hour saving achieved in terms of sub-regulations (1) and (2);
 - ii. The form and detail regarding the information submitted in terms of sub-regulations (1) and (2)
 - iii. Any short term power purchases.
- (7) The Department shall consolidate all energy efficiency and demand side management projects and publish the consolidated statistics in the government gazette at least once a year.

Payment of rebate

- (8) The department shall submit to the regulator a list of the independently verified savings that were achieved:
- (9) The regulator may instruct Eskom to pay a rebate to the end-user, licensee or the energy service company for the saving they have achieved. The rebate payable shall be determined in accordance with subregulation (4).
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