DEPARTMENT OF MINERAL RESOURCES AND ENERGY

NO. 1093 **16 OCTOBER 2020**

ELECTRICITY REGULATION ACT, 2006: AMENDMENT OF ELECTRICITY REGULATIONS ON NEW GENERATION CAPACITY, 2011

I, Samson Gwede Mantashe, Minister of Mineral Resources and Energy, in terms of section 35(4) of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), hereby amend the Electricity Regulations on New Generation Capacity published by Government Notice No. R. 399 in *Government Gazette* 34262 of 4 May 2011 and amended by Government Notice No. R. 1366 published in *Government Gazette* No. 40401 of 4 November 2016, as set out in the Schedule.

SAMSON GWEDE MANTASHE
MINISTER OF MINERAL RESOURCES AND ENERGY

GENERAL EXPLANATORY NOTE

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

______________ Words underlined with a solid line indicate insertions in existing enactments.

SCHEDULE

Definitions

1. In this Schedule "the Regulations" means the Electricity Regulations on New Generation Capacity published by Government Notice No. R. 399 in *Government Gazette* No. 34262 of 4 May 2011, as amended by Government Notice No. R. 1366 published in *Government Gazette* No. 40401 of 4 November 2016.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended by—

(a) the insertion after the definition of "Interconnected distribution power system" of the following definition:

"**"Integrated Development Plan"** means an integrated development plan contemplated in section 25 of the Municipal Systems Act;"; and

(b) the substitution for the definition of "Minister" of the following definition:

"**"Minister"** means the Minister of Mineral Resources and Energy;".

Amendment of regulation 2 of the Regulations

3. Regulation 2 of the Regulations is hereby amended by the substitution for sub-regulation (1) of the following sub-regulation:

"(1) These Regulations apply to the procurement of new generation capacity, by organs of state active in the energy sector, including-

(a) new generation capacity derived from renewable energy sources and co-generation;

(b) base load, mid-merit load **[and]**, peak load new generation capacity, and energy storage; and

(c) cross border projects,

but excluding new generation capacity derived from nuclear power technology.".

Amendment of regulation 5 of the Regulations

4. Regulation 5 of the Regulations is hereby amended by the addition of the following sub-regulation:

"(3) A municipality, as an organ of state, may apply to the Minister to procure or buy new generation capacity in accordance with the Integrated Resource Plan, and such municipality must–

(a) conduct and submit a feasibility study as contemplated in sub-regulation (2), where it intends to deliver the new generation capacity project through an internal mechanism as contemplated in section 76*(a)* of the Municipal Systems Act;

(b) submit proof that it has complied with the provisions of section 120 of the Municipal Finance Management Act and the Municipal Public-Private

Partnership Regulations published by Government Notice No. R. 309 in *Government Gazette* No. 27431 of 1 April 2005, where it intends to deliver the new generation capacity project through an external mechanism as contemplated in section 76 *(b)* of the Municipal Systems Act; and

(c) submit proof that the application is aligned with its Integrated Development Plan.

Amendment of regulation 9 of the Regulations

5. Regulation 9 of the Regulations is hereby amended by the substitution in sub-regulation (2) for the words preceding paragraph *(a)* of the following words:

"(2) Before the buyer concludes a power purchase agreement, the buyer or the procurer must, subject to any approvals required in terms of the **[PFMA]** Public Finance Management Act, the Municipal Finance Management Act or the Municipal Systems Act, as the case may be, -".

ISAZISO SIKAHULUMENI

UMNYANGO WEZENGCEBO EMBIWAYO NEZAMANDLA

No. R. ……… 2020

UMTHETHO WOKULAWULWA KUKAGESI, 2006: UKUCHITSHIYELWA KWEMITHETHONQUBO KAGESI MAQONDANA NAMANDLA OKUKHIQIZA UGESI OMUSHA, 2011

Mina, Samson Gwede Mantashe, uNgqongqoshe Wezengcebo Embiwayo Nezamandla, ngokwesigaba 35(4) soMthetho Wokulawulwa Kukagesi, 2006 (uMthetho No. 4 wezi-2006), ngalokhu ngichibiyela iMithethonqubo Yezamandla Okukhiqiza Ugesi Omusha owashicilelwa kuSaziso Sikahulumeni No. R. 399 ku*Gazethi Kahulumeni* 34262 yamhla zingu-4 Meyi 2011 futhi esichitshiyelwe ngeSaziso Sikahulumeni No. R. 1366 owashicilelwa kuG*azethi Kahulumeni* No. 40401 yamhla zingu-4 Novemba 2016, njengoba kumiswe oHlelweni.

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SAMSON GWEDE MANTASHE

UNGQONGQOSHE WEZENGCEBO EMBIWAYO NEZAMANDLA

UMBHALO OCHAZAYO JIKELELE

[ ] Amagama abhalwe ngokugqamile kubakaki abayizikwele aveza okweqiwe emithethweni emisiwe.

_______________ Amagama adwetshelwe ngomugqa ohlangene aveza okujotshelelwe emithethweni emisiwe.

UHLELO

Izincazelo

1. Kulolu Hlelo itemu elithi "iMithethonqubo" kushiwo iMithethonqubo Yokulawula Ugesi yezaMandla Okukhiqiza Ugesi Omusha eshicilelwe kuSaziso Sikahulumeni No. R. 399 ku*Gazethi Kahulumeni* No. 34262 yamhla zingu-4 Meyi 2011, njengoba ichitshiyelwe kuSaziso Sikahulumeni No. R. 1366 esashicilelwa ku*Gazethi Kahulumeni* No. 40401 yamhla ka 4 Novemba 2016.

Ukuchitshiyelwa komthethonqubo 1 weMithethonqubo

2. Ngalokhu umthethonqubo 1 weMithethonqubo uchitshiyelwa ngokulandelayo—

(a) ukujobelela emuva kwencazelo yetemu elithi "Uhlelo lokuphakela ngamandla oluxhumaxhumene" encazelweni elandelayo:

"**"Uhlelo Lwentuthuko Oludidiyele"** kushiwo uhlelo lwentuthuko oludidiyele olubhalwe kusigaba 25 soMthetho Wezinhlelo Zomasipala,"; futhi

(b) ukushintshwa kwencazelo yetemu elithi "uNgqongqoshe" lube nencazelo elandelayo:

""**uNgqongqoshe"** kushiwo uNgqongqoshe Wezengcebo Embiwayo Nezamandla,".

Ukuchitshiyelwa komthethonqubo 2 weMithethonqubo

3. Ngalokhu umthethonqubo 2 weMithethonqubo uchitshiyelwa ngokushintshwa kwesigatshana somthethonqubo (1) kufakwe isigatshana somthethonqubo esilandelayo:

"(1) Le Mithethonqubo isebenza ohlelweni lokutholakala kwamandla okukhiqiza ugesi omusha, lwezinhlaka zikahulumeni ezisebenza emkhakheni wezamandla, okubandakanya -

(a) amandla okukhiqiza ugesi omusha asuselwa emithonjeni yamandla avuselelekayo nokukhiqiza ngokuhlanganyela;

(b) umthwalo oyisisekelo, umthwalo omaphakathi **[kanye],** nomthwalo omkhulu wamandla okukhiqiza ugesi omusha, kanye nokugcinwa kwamandla; kanye

(c) imisebenzi yokukhiqizwa kukagesi ngaphandle kwemingcele yakuleli,

kodwa kungashiywa ngaphandle amandla okukhiqiza ugesi omusha asuselwe ebuchwepheshenі bamandla enuzi.".

Ukuchitshiyelwa komthethonqubo 5 weMithethonqubo

4. Ngalokhu umthethonqubo 5 weMithethonqubo uchitshiyelwa ngokujotshelelwa kwesigatshana somthethonqubo esilandelayo:

"(3) Umasipala, njengohlaka lukahulumeni, ungafaka isicelo kuNgqongqoshe sokuthola noma sohlelo lokuthenga amandla okukhiqiza amasha ngokoHlelo Lwezinsiza Oludidiyele, futhi lowo masipala kumele–

(a) wenze ucwaningo bese kuthunyelwe umbiko wokucubungula amathuba empumelelo yomsebenzi njengoba kubhalwe kusigatshana somthethonqubo (2), lapho kuhloswe ukuhlinzeka ngomsebenzi wamandla okukhiqiza ugesi

omusha ngezindlela zangaphakathi njengoba kubhalwe kusigaba 76*(a)* soMthetho Wezinhlelo Zomasipala;

(b) uthumele ubufakazi bokuthi uzilandelile izinhlinzeko sezigaba 120 soMthetho Wokuphathwa Kwezimali Zomasipala kanye neMithethonqubo Yezobudlelwano Bukahulumeni Nomkhakha Ozimele owashicilelwa kuSaziso Sikahulumeni No. R. 309 ku*Gazethi Kahulumeni* No. 27431 yomhla ka 1 Ephreli 2005, lapho kuhloswe ukuhlinzeka ngomsebenzi wamandla okukhiqiza ugesi omusha ngezindlela zangaphandle njengoba kubhalwe kusigaba 76*(b)* soMthetho Wezinhlelo Zomasipala; futhi

(c) uthumele ubufakazi obuveza ukuthi isicelo siyahambisana noHlelo Lwentuthuko Oludidiyele.

Ukuchitshiyelwa komthethonqubo 9 weMithethonqubo

5. Ngalokhu umthethonqubo 9 weMithethonqubo uchitshiyelwa ngokushintshwa kwesigatshana somthethonqubo (2) kufakwe amagama alandelayo endimeni (a):

"(2) Ngaphambi kokuba umthengi aphothule isivumelwano sokuthenga amandla, umthengi noma oqhuba uhlelo lokutholakala kwempahla kumele, kuncike kunoma okuphi ukugunyaza okudingekayo ngokoMthetho Wokuphathwa Kwezimali Zikahulumeni **[i-PFMA]**, uMthetho Wokuphathwa Kwezimali Zomasipala noma uMthetho Wezinhlelo Zomasipala, ngokwalokho okuzobe kudingeka, - ".

KITSISO YA PUSO

LEFAPHA LA METSWEDI YA DIMINERALE LE MAATLA

Ya Bo. R. ……… 2020

MOLAO WA MELAWANATAOLO YA MOTLAKASE, 2006: TLHABOLOLO YA MELAWANATAOLO YA MOTLAKASE KA GA BOKGONI JWA TLHAGISO E NTŠHWA YA MOTLAKASE, 2011

Nna, Samson Gwede Mantashe, Tona ya Metswedi ya Diminerale le Maatla, go latela karolo 35(4) ya Molao wa Melawanataolo ya Motlakase, 2006 (Molao wa Bo. 4 wa 2006), ka jalo ke tlhabolola Melawanataolo ya Motlakase ka ga Bokgoni jwa Tlhagiso e Ntšhwa ya Motlakase e e phasaladitsweng ka Kitsiso ya puso ya Bo. R. 399 mo teng ga *Lekwalodikgang la Puso* 34262 la 4 Motsheganong 2011 le go tlhabololwa ke Kitsiso ya Puso ya Bo. R. 1366 e e phasaladitsweng mo teng ga *Lekwalodikgang la Puso* la Bo. 40401 la 4 Ngwanatsele 2016, jaaka go supilwe mo Mametlelelong.

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SAMSON GWEDE MANTASHE
TONA YA LEFAPHA LA METSWEDI YA DIMINERALE LE MAATLA

TLHALOSO YA DINTLHAKAKARETSO

[ ] Mafoko a a kwadilweng ka bontsho mo masakaneng a sekwere a supa tse di tlogetsweng go tswa mo ditaolong tse di leng teng.

________________ Mafoko a a thaletsweng ka mola o o tlhomameng a supa tse di akareditsweng mo ditaolong tse di leng teng.

MAMETLELELO

Ditlhaloso

1. Mo Mametlelelong eno "Melawanataolo" e kaya Melawanataolo ya Motlakase ka ga Bokgoni jwa Tlhagiso e Ntšhwa ya Motlakase e e phasaladitsweng mo Kitsisong ya Puso ya Bo. R. 399 mo teng ga *Lekwalodikgang la Puso* la Bo. 34262 la 4 Motsheganong 2011, jaaka e tlhabolotswe ke Kitsiso ya Puso ya Bo. R. 1366 e e phasaladitsweng mo teng ga *Lekwalodikgang la Puso* la Bo. 40401 la 4 Ngwanatsele 2016.

Tlhabololo ya molawanataolo 1 wa Melawanataolo

2. Molawanataolo1 wa Melawanataolo ga jaana e tlhabololwa ka —

(a) go tsenya morago ga tlhaloso ya "tsamaiso e e gokaganeng ya kabo ya maatla " e e latelang:

"<u>**"Leano le le Kopantsweng la Tlhabololo"** le kaya leano le le kopantsweng la tlhabololo le le akanyeditsweng mo karolong 25 ya Molao wa Tsamaiso ya Mmasepala;</u>"; le

(b) thefosano ya tlhaloso ya "Tona" ka e e latelang:

"**"Tona"** e kaya Tona ya <u>Metswedi ya Diminerale</u> le Maatla;".

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Tlhabololo ya molawanataolo 2 wa Melawanataolo

3. Molawanataolo 2 wa Melawanataolo ka jalo o tlhabolotswe ka thefosano ya molawanataolotlaleletso (1) wa molawanataolotlaleletso o o latelang:

"(1) Melawanataolo eno e dira mo tshenkelong ya bokgoni jwa tlhagiso e ntšhwa ya motlakase, ka ditheo tsa puso tse di matlhagatlhaga , mo lekaleng la maatla, go akaretsa, -

(a) bokgoni jwa tlhagiso e ntšhwa ya motlakase e e tswang mo metsweding ya maatla a a ntšhwafatsegang le phetlhokopanelo;

(b) boimatheo, morwalotopogareng **[le]**, bokgoni jwa tlhagiso e ntšhwa ya motlakase ya morwalo o o kwa godimo, le polokelo ya maatla; le

(c) diporojeke go kgabaganya melelwane,

fela ga e akaretse bokgoni jwa tlhagiso e ntšhwa ya motlakase e e tswang mo thekenolojing ya maatla a nyutlilea.".

Tlhabololo ya molawanataolo 5 wa Melawanataolo

4. Molawanataolo 5 wa Melawanataolo ka jalo o tlhabololwa ka kakaretso ya molawanataolotlaleletso o o latelang:

"(3) Mmasepala, jaaka setheo sa puso, o ka dira kopo kwa go Tona ya go dira tshenkelo kgotsa go reka bokgoni jwa tlhagiso e ntšhwa ya motlakase go latela Leano le le Kopantsweng la Metswedi, mme mmasepala oo o tshwanetse–

(a) go diragatsa le go neelana ka tlhotlhomiso ya tlhalosokgonagalo jaaka go akanyeditswe mo go molawanataolotlaleletso (2), moo o ikaeletseng

go neelana ka bokgoni jwa tlhagiso e ntšhwa ya motlakase ka karolothulaganyo ya ka fa gare jaaka go akanyeditswe mo karolong 76*(a)* ya Molao wa Dithulaganyo tsa Mmasepala;

(b) go neelana ka bosupi jwa gore o ikobetse ditekanyetso tsa karolo 120 ya Molao wa Tsamaiso ya Matlole a Mmasepala le Melawanataolo ya Kgwerano magareng ga Puso le Makala a Poraefete e phasaladitswe ke Kitsiso ya Puso ya Bo. R. 309 mo teng ga *Lekwalodikgang la Puso* la Bo. 27431 la 1 Moranang 2005, leo le ikaelelang go neelana ka porojeke ya bokgoni jwa tlhagiso e ntšhwa ya motlakase ka dikarolothulaganyo tsa kwa ntle jaaka go akanyeditswe mo karolong 76 *(b)* ya Molao wa Dithulaganyo tsa Mmasepala; le

(c) go neelana ka bosupi jwa gore kopo e amana le Leano le le Kopantsweng la Tlhabololo la one.

Tlhabololo ya molawanataolo 9 wa Melawanataolo

5. Molawanataolo 9 wa Melawanataolo ka jalo o tlhabolotswe ka go tlosiwa ga molawanataolotlaleletso(2) mabapi le mafoko a a latelang temana *(a)* ya mafoko a a latelang:

"(2) Pele moreki a khutlisa tumelano ya maatla a theko, moreki o tshwanetse, go latela dikatlanegiso tsotlhe tse di tlhokegang go latela **[PFMA]** Molao wa Tsamaiso ya Matlole a Puso, Molao wa Tsamaiso ya Matlole a Mmasepala kgotsa Molao wa Dithulaganyo tsa Mmasepala, jaaka go ka direga , -".