

ALLEN & OVERY

Hybrid Solutions – Regulatory Considerations

May 2022



The Electricity Regulation Act, 2006 (ERA), the National Energy Regulator of South Africa (NERSA) and the Integrated Resource Plan (IRP)



The central piece of legislation regulating electricity in South Africa is the ERA

- Generation licence for the production of electricity unless under 100MW then registration with NERSA.
- Covers both wheeling and behind the meter and operation of distribution system in respect of the exempt facility.
- Consideration in respect of each type of facility and technology
- If not embedded generation – NERSA considers MW allocation for technology in issuing licence for a Facility.



Regulation of hybrid solutions – energy storage



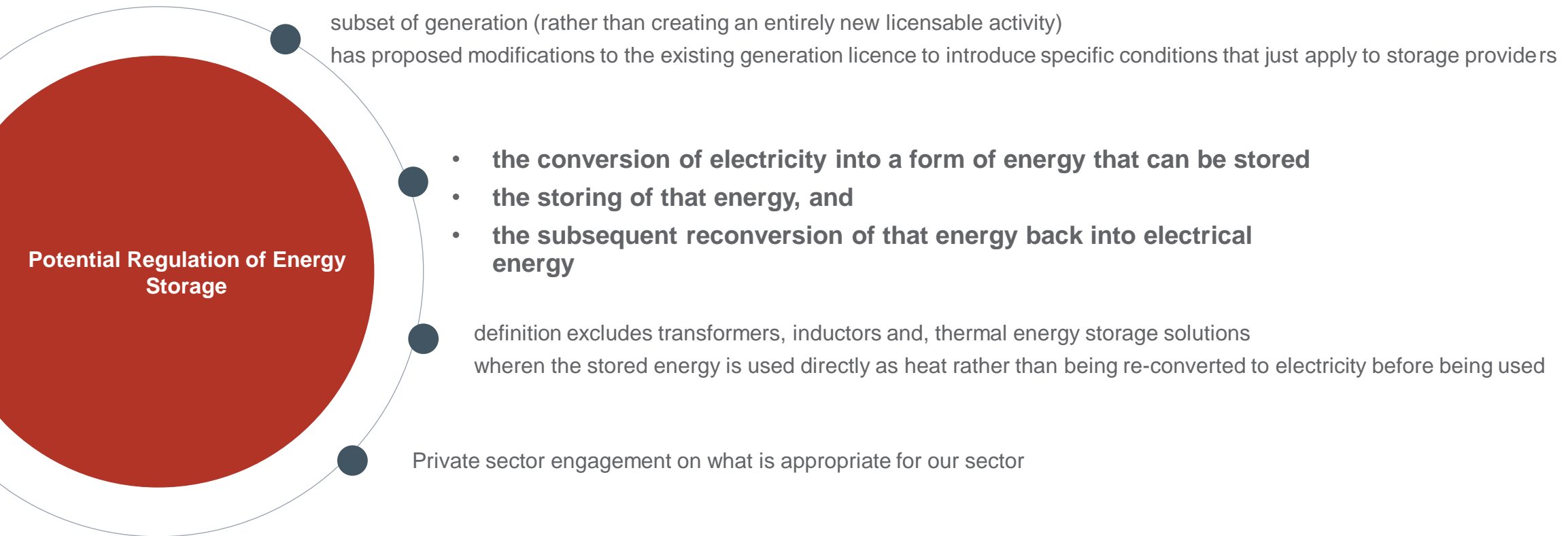
Energy Storage is undefined both in ERA and in Schedule 2 of ERA

- Schedule 2 exemption includes generation facility with or without “energy storage”.
- Implies that energy storage component of the generation facility.
- ERA and ERA Bill silent on if the operation of a stand-alone energy storage facility (operated by the offtaker) will require a licence in the same way that operating a generation facility above 100MW does.



Will we follow UK precedent?

Office of Gas and Electricity Markets (Ofgem) treats electricity storage as a form of electricity generation



Our captive power credentials

Highlights of our experience include advising:

Tronox Mineral Sands Proprietary Limited on the procurement of a captive power project.

Marula Platinum Mine (Pty) Ltd on the procurement of an engineering, procurement and construction contractor to develop and construct a captive power and renewable energy facility for Implats.

Glencore on the procurement of an independent power producer to finance, develop, construct and operate a captive power and renewable energy facility and supply the electricity to Glencore's operations on a wheeled basis under a 20 year power purchase agreement.

Anglo American Platinum on a procurement for an independent power producer to build and operate a solar PV facility at its Mogalakwena Mine.*

Khoemacau Copper Mine on developing a 30MW solar PV captive power project in Botswana, including reviewing and negotiating the Power Purchase Agreement.*

Richards Bay Minerals on its procurement of an IPP to develop a renewable energy facility and supply the electricity to Richards Bay Minerals on a wheeled basis under a 20 year power purchase agreement.

De Beers consolidated Mines Limited on bids for the design, finance, construct, operate, maintain and own renewable facilities on an onsite basis development of a 4MW heavy fuel oil (HFO) plant in Tsimiroro.*

Goldfields on developing a 40MW solar PV captive power project at its South Deep Mine.*

Impala Platinum on the development of a 33MW solar PV project at Marula Platinum Mine in South Africa.*

Manganese Mining Company on bids for the design, finance, construct, operate, maintain and own PV and or Wind facilities on an onsite and wheeling basis.*

QIT Madagascar Minerals S.A. on purchasing energy from an independent power producer that will develop a solar PV and wind facility to supply energy to QMM's mine in Madagascar.*

Ignite Energy Proprietary on the development of a solar PV captive power plant in Asanko in Ghana and an HFO, solar PV and battery hybrid captive power plant for Syama in Mali.*

The lenders on 6 captive projects for two mining offtakers.*

Samancor Chrome on bids for the design, finance, construct, operate, maintain and own PV and or Wind facilities on an onsite and wheeling basis.

Enel Green Power on the development, construction and financing of a captive 40MW PV solar power project in South Africa.*

Dangote Industries on the development and construction of a captive power plant as part of a new cement production plant at Ibese, Nigeria.*

An investor on a proposed acquisition of a captive 75MW gas-fired power project in Nigeria.*

Solar Saver SA Proprietary Limited, as Borrower, on the financing of a portfolio of C&I rooftop solar PV Systems across various sites.*

Sasol South Africa Limited on bids for the design, finance, construct, operate, maintain and own Solar Photo-Voltaic (PV) facilities and their associated connection infrastructure to supply 10MW of power to Sasol's Secunda facilities and other 10MW of power to Sasol's Sasolburg facilities.*

Key contacts



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Questions?

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