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Licensing in the Piped-gas and
Petroleum Pipelines Industries

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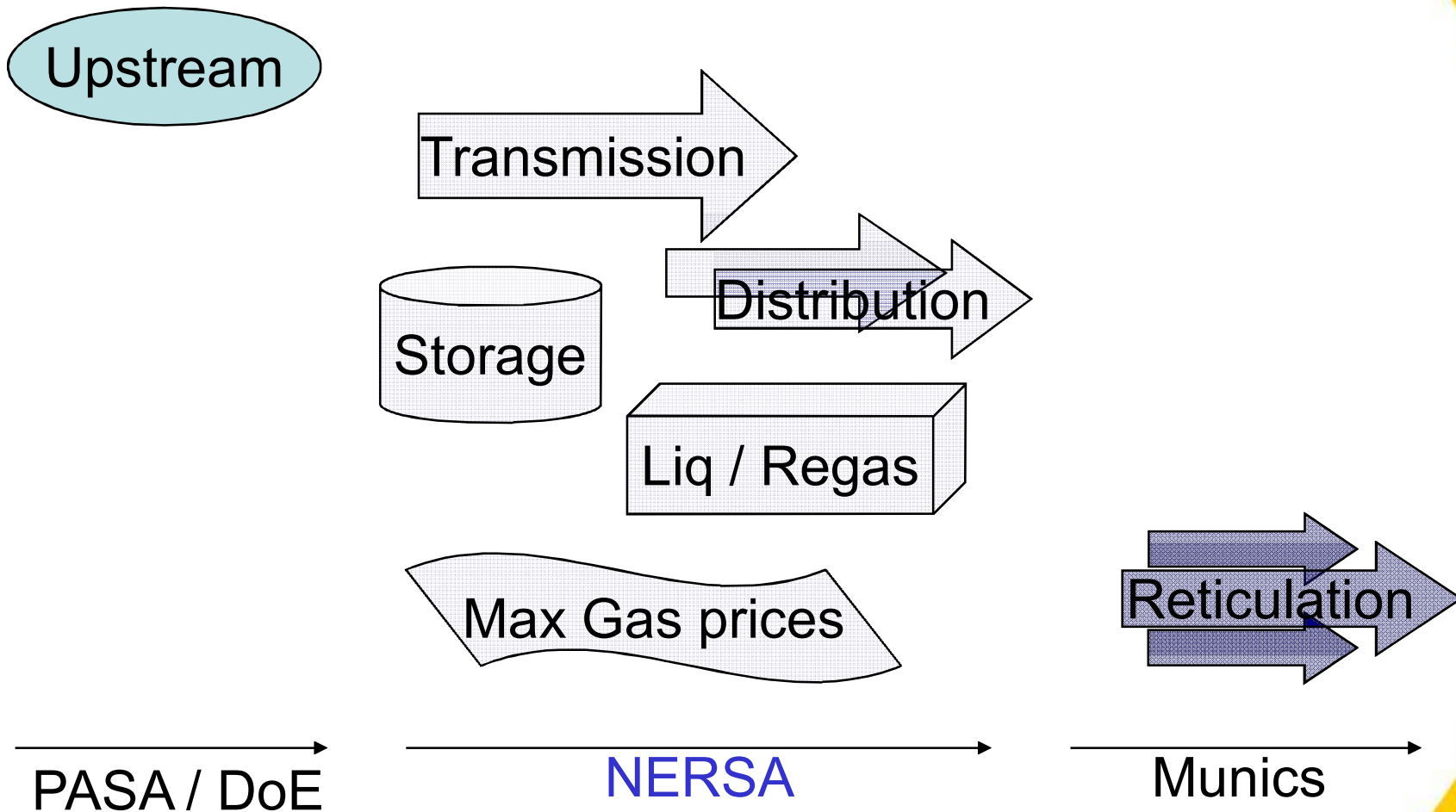
Relevant Laws

- Establishment of Energy Regulator
 - National Energy Regulator Act, 2004 (Act No. 40 of 2004)
- Industry-specific Acts
 - Gas Act, 2001 (Act No. 48 of 2001)
 - Petroleum Pipelines Act, 2003 (Act No. 60 of 2003)
- Levies Acts
 - Gas Regulator Levies Act, 2002 (Act No. 75 of 2002)
 - Petroleum Pipelines Levies Act, 2004 (Act No. 28 of 2004)
- Regulations made in terms of the Acts
- License conditions made in terms of the Acts
- Rules made by NERSA in terms of the Acts

Piped-gas licensing requirements

- The Gas Act mandates NERSA to issue licences for the construction, conversion and operation of facilities for:
 - **Transmission** (bulk transportation by pipeline from source to a distributor, reticulator, storage company or eligible customer);
 - **Storage** (holding of gas as a service);
 - **Distribution** (transportation at between 2 and 15 bar pressure);
 - **Liquefaction** (converting natural gas to a liquid state);
 - **Re-gassification** (converting liquefied natural gas to a gaseous state);
 - **Trading** (purchase and sale of gas as a commodity) in gas.
- Gas activities not requiring a licence from NERSA:
 - Production or importation of gas (Registration required)
 - Transmission for own use (Registration required);
 - Small biogas projects not connected to the gas pipeline grid (Registration required);
 - Gas reticulation and any trading below 2 bar guage;
 - Distribution or sale of LPG in cylinders;
 - Offshore exploration for gas and LNG export.

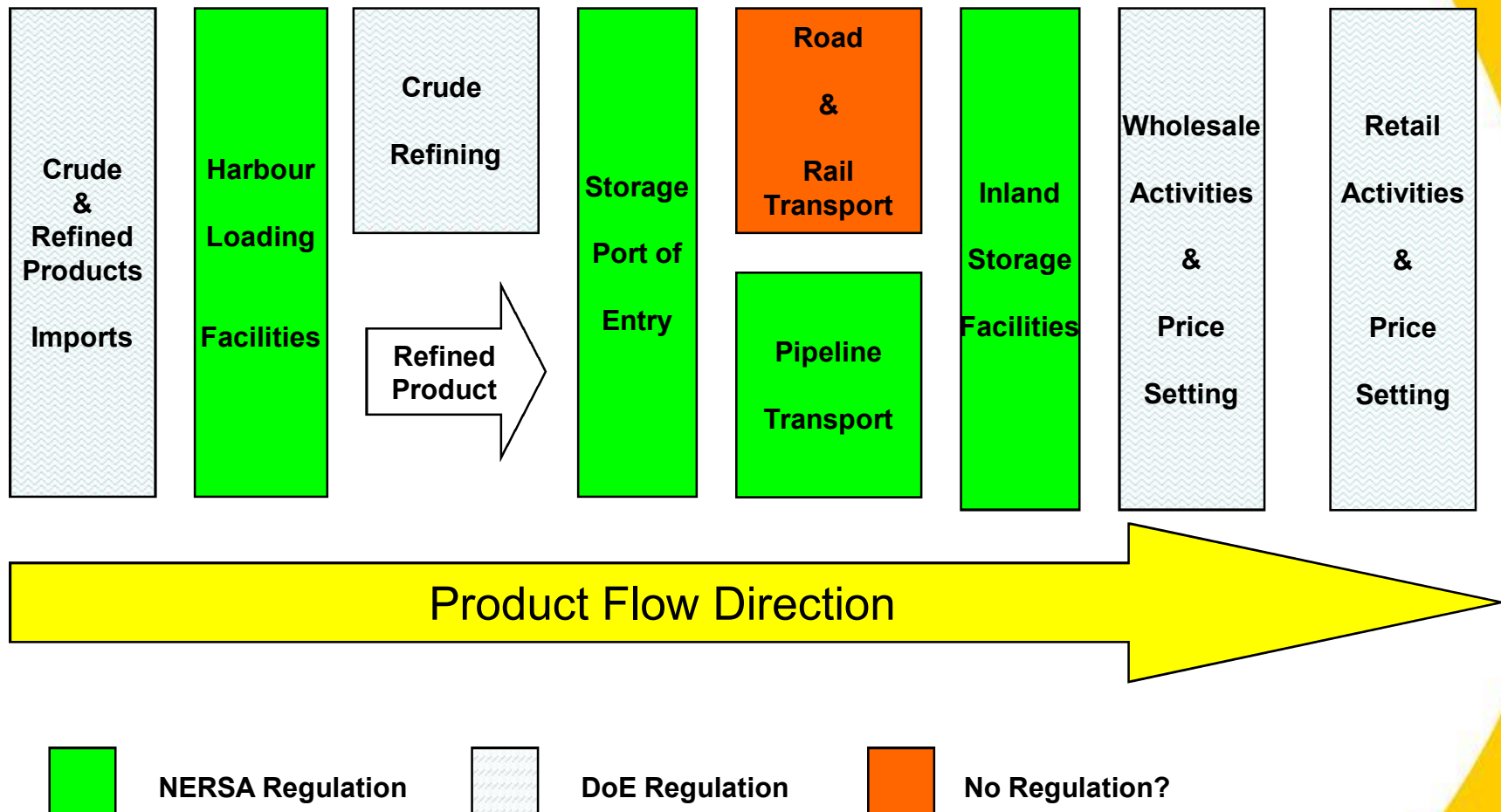
Scope of piped-gas regulation



Petroleum Pipelines licensing requirements

- The Petroleum Pipelines Act mandates NERSA to issue licences for the construction, conversion and operation of:
 - **Petroleum Pipelines** (Used to transport petroleum excluding those located on the premises of a manufacturer of petroleum products, a storage facility, a retailer or an agricultural cooperative)
 - **Loading facilities** (Any marine facility to load or off-load petroleum); and
 - **Storage facilities** (Bulk storage and auxiliary equipment excluding those for manufacture, own use, retailing, agriculture, transport)
- Industry-specific Acts Prohibition
 - The industry-specific Acts explicitly prohibits any person from engaging in activities that requires a license from NERSA.
 - Persons engaged in any of the prescribed activities must apply to NERSA for a license in a manner prescribed in the Rules.

NERSA mandate in the *petroleum supply chain*



License Application Rules

- Applicant must publish notice of application
 - At least 2 newspapers on three different days in any two official languages;
 - State where application will be assessable to public;
 - State closing date for receipt of objections (within 30 days);
 - State objections to be lodged with NERSA;
 - State that the Energy Regulator will decide on the application.
- Applicant must respond to an objection within 30 days
- Evaluation of license applications by Energy Regulator
 - Investigation and consultation: Public hearing;
 - Based on evaluation the Energy Regulator may request the applicant to modify the application.
- 60 day decision making period after all information received
- 90 days in total if no objections or outstanding information

Information to be provided in Licence Application

- General information
 - Particulars of applicant
 - Desired commencement date
 - Any other relevant information
 - Desired licence conditions
 - Solemn declaration that information is true and correct
- Confidential treatment of commercially sensitive information
 - May be withheld from public copies of application with concurrence of the Energy Regulator.
- Documents of proof (see next slide)
- Details of application (see later slides)
 - An application form is provided in the Rules for each of the various activities;
 - Where one application is made for more than one facility of the same type, all the details are required for each facility.

Documents to be attached to application

- Proof of identity, residence, proclamation establishing juristic person;
- Particulars of owners or shareholders of the applicant;
- Documents demonstrating administrative, financial and technical abilities;
- Certified copy of ROD of relevant environmental authorities;
- List of applicable health and safety regulations, operating and technical standards, codes and specifications to be used in the activities for which the application is made;
- Details of the products that will be handled in the facility;
- Declaration of compliance with industry charters and meeting BBEE requirements;
- Proof of compliance with Regulations regarding environmental rehabilitation
- Declaration of why any certified copy is not provided.

Piped-gas facility information

| Information required | Construction | Conversion | Operation |
|--|---|------------------------|------------------------|
| Technical description of facility | Maps, sizes, capacities, design, rec. and del. points | Changes and its impact | Layout, rates. |
| Mechanical flow diagram | Yes | Changes | Yes |
| Proof of financial viability | Commercial, financing, tariffs | Changes | Yes |
| Gas source | Reserves, production, agreements | Changes | Yes |
| Existing and potential customers | Names, location, categories, volumes | Changes | Yes |
| 3 rd party access (not for Dx)) | Allocation mechanism to grant access | Changes | Yes. |
| 10 year development plan (Dx) | Ability to supply present and future customers | Yes | Yes |
| Development program | Phased capacity & dates | Plans | Commitments, deadlines |

Piped-gas trading information

- Details of proposed Tx and/or Dx networks to be used and associated gas pressure(s);
- Detailed specification(s) of the gas that will be traded under the licence;
- Details of the origin of the gas. Inside and outside SA borders.
- Details of proposed pricing policy or principles to be applied.
- Description of customer type E.g. distributor, reticulator, large user, existing agreements.
- Copies of contracts giving details of volumes, names of parties, duration of contracts; and
- Copies of contracts with network operators (Dx and Tx) including details of volumes names of parties, duration of contracts.

Petroleum Pipelines Information

| Information required | Construction | Conversion | Operation |
|-----------------------------------|---|---------------------|-------------------------|
| Technical description of facility | Maps, sizes, capacities, design, rec. and del. points | Changes, condition. | Layout, rates. |
| Storage access | Arrangements | Changes | Yes |
| Metering provisions | Type, accuracy, calibration | Changes | Yes |
| Tariff policies | Proposed, ROR | Changes | Yes |
| Emergency plan | As per Act | | Yes |
| Operating procedures | Proposed | Changes | Ops and Maint. |
| Security arrangements | NKP status & plans | Changes | Yes |
| Development program | Phased capacity & dates | Plans | Commitments , deadlines |

Evaluation of License Application by Energy Regulator

- The Energy Regulator must consider *inter alia* the following when evaluating the licence application:
 - The information provided in the application;
 - Objections to the application and applicant's response;
 - Any other information available to the ER;
 - Other licence applications that may affect or be affected by ER decision;
 - Technical, administrative and financial capabilities of applicant;
 - Methods and procedures for safely operating the facilities;
 - Proposed general conditions for providing the service;
 - Technical specifications of the project.

Licence Conditions

- The industry-specific Acts empowers NERSA to impose license conditions relating to inter alia:
 - Access by third parties to a licensee's facilities;
 - Approval and monitoring of prices and tariffs;
 - Duration of the license;
 - Monitoring and provision of information to NERSA;
 - Operational and technical standards that a licensee must comply with.

Licensing of integrated projects

- Gas source and purpose affect which licences are required E.g.
 - Natural gas to power station
 - gas pipeline construction and operating licence;
 - electricity generation licence
 - Liquefied Natural Gas (LNG) regas facility
 - petroleum pipeline construction and operating licence;
 - LNG regas construction and operating licence;
 - gas transmission pipeline construction and operating licence
 - Compressed Natural Gas (CNG)virtual pipeline
 - Licensed as a storage facility
- Nothing precludes any person from discussing a contemplated project with the Energy Regulator prior to filing a licence application

Conclusions

- NERSA is a relatively young regulator and still to determine its process maturity.
- There is a learning curve for all: especially the policy maker, the regulator and the regulated entities during these process refinements.
- NERSA is striving for regulatory certainty to create a conducive environment for attracting and ensuring orderly investment.
- NERSA strives to promote orderly development, competition, access to energy infrastructure, security of energy supply, access to affordable energy and the promotion of BEE.
- Filling legislative gaps is a priority. The regulator needs to play an important part of advising the policy maker.
- NERSA aims to balance the interests of suppliers and customers in the piped-gas and petroleum pipelines industries.

Thank You
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Registration process (Gas)

- Apply to NERSA for registration
- The following information is required by NERSA for registration:
 - Gas **production** quantities (GJ)
 - Copy of independent reservoir engineer's assessment – for wells or coal seams – tcf
 - Detailed description of landfill, age, estimated remaining production life, size, no. of producing wells and description of gas collection piping.
 - Composition of gas, details of feed and by-products, process flow, description of key process units and details of reticulation network for gas consumption
 - Gas **importation** quantities or planned import quantities in GJ