

Mr S. Luzipo, MP

Chairperson of the Portfolio Committee on Mineral Resources and Energy

For attention: Mr Arico Kotze

Per email: akotze@parliament.gov.za

Dear Mr Luzipo

WRITTEN SUBMISSION ON THE GAS AMENDMENT BILL [B9-2021]

1. Herewith are comments by the National Energy Regulator (NERSA) on the Gas Amendment Bill [B9-2021] ("the Bill") as published by Parliament. NERSA is a regulatory authority established as a juristic person in terms of Section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004). NERSA's mandate is to regulate, amongst others, the piped-gas industry in terms of the Gas Act, 2001 (Act No. 48 of 2001) currently being amended.
2. NERSA welcomes the opportunity provided by the Portfolio Committee on Mineral Resources and Energy (PCMRE) to comment on the Bill, and pledges its support for this process as it understands the challenges and the developments in the gas industry that this Bill seeks to address. NERSA has worked closely with the Department of Mineral Resources and Energy (DMRE) in the development of the Bill since the beginning and the comments presented in the enclosed submission "**Comments by the National Energy Regulator on the Gas Amendment Bill [B9-2021]**" are based on

Regulator Members:

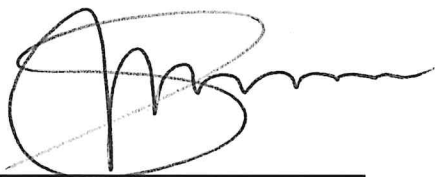
*Mr N Gumede *Ms N Maseti *Mr MW Mkhize Mr S Mokoena Ms Z Mpungose Mr FK Sibandá
*Full-Time Regulator Members

NERSA is a Regulatory Authority established in terms of the National Energy Regulator Act, 2004 (Act No 40 of 2004)

challenges encountered after the Bill was prepared for submission to Cabinet, and mainly seek to assist in the processing of the Bill and improve its outcomes.

3. In essence, the comments seek to enhance the new provisions and regulatory initiatives contained in the Bill that could have unintended consequences if left in their current form. Such regulatory policy initiative introduced provisions that are too prescriptive for certain activities, onerous to NERSA and the industry, and invite certain interpretations and ambiguity. In the submission, NERSA elaborates on the concerns about the provisions, demonstrates their potential impact in the market based on its practical experience in regulating the piped gas industry in South Africa, and proposes solutions to address the identified issues. Furthermore, NERSA proposes the insertion of few new sections in the Bill to address existing regulatory gaps on the registration of gas activities and alignment of section 22(1) of the Gas Act, 2001 and the Competition Act, as amended.
4. NERSA wishes to make oral representation to the PCMRE on, amongst others, the issues raised in the enclosed submission and the overall regulatory gaps that the Gas Amendment Bill seeks to address, particularly the challenges concerning the existing weak regulatory mandate. NERSA is looking forward to engage the PCMRE on the Bill and hereby advise that Ms Nomfundo Maseti (Full-Time Regulator Member Responsible for Piped-Gas Regulation) has been designated to make this written submission and oral representations to the PCMRE on behalf of the Energy Regulator.

Yours sincerely,



Ms Nomfundo Maseti

Full-Time Regulator Member Responsible for Piped-Gas Regulation: NERSA

Date: 23/07/2021



**COMMENTS BY THE NATIONAL ENERGY REGULATOR
ON THE GAS AMENDMENT BILL [B9-2021]**

July 2021

Contents

A. INTRODUCTION3

B. COMMENTS ON THE SPECIFIC SECTIONS OF THE GAS AMENDMENT BILL4

C. PROPOSALS FOR NEW SECTIONS TO BE INSERTED IN THE BILL10

A. INTRODUCTION

1. The National Energy Regulator (NERSA) welcomes the opportunity provided by the Portfolio Committee on Mineral Resources and Energy to comment on the Gas Amendment Bill [B9-2021] (“the Bill”) amending the Gas Act, 2001 (Act No.48 of 2001) (“the Gas Act”). NERSA, having been the main advocate for the amendment of the Gas Act since 2011, supports the Bill and understands the challenges and the developments in the industry that it seeks to address. Further, NERSA appreciates the collaborative and inclusive approach taken by the Department of Mineral Resources and Energy (DMRE) to involve other various stakeholders in the development of the Bill. The progress made to date by DMRE to advance the Bill to Parliament is commendable.
2. NERSA has worked closely with DMRE on the Bill since the beginning and the comments presented in this submission are based on challenges encountered after the Bill was prepared for submission to Cabinet towards the end of 2020. NERSA has identified several provisions that could have unintended consequences if left in their current form when the Bill is assented. Precisely, NERSA is concerned about provisions that are too prescriptive, invite certain interpretations and ambiguity, and the use of wording that could have unintended consequences if not carefully considered.
3. Therefore, this submission seeks to demonstrate the implications of the provisions and propose changes or enhancements that would assist the PCMRE to carefully consider some of the proposals to improve the outcomes of the Bill. NERSA has also taken this opportunity to propose the insertion of few new sections in the Bill to address existing regulatory gaps on the registration of gas activities, amongst others.
4. The comments are split into two sections –Section B which deals with comments on specific provisions of the Bill; and Section C which makes new proposals to be inserted in the Bill to enhance the effectiveness of existing provisions regarding registration of gas activities, price discrimination and mandatory access to liquefied natural gas facilities.

B. COMMENTS ON THE SPECIFIC SECTIONS OF THE GAS AMENDMENT BILL

Section		Issue	Impact	Proposed Solutions
Clause 1 of the Bill - Amendment of section 1 of Act 48 of 2001	Section 1(zL)	The proposed new definition of ‘trading’ in section 1(zL) of the Bill suggests that the sale of gas will only qualify as trading if gas is sold only by a transmission or distribution company and only to a reticulator or an end consumer.	On the face of it, this seems to completely exclude the sale of gas by a transmission company to a distributor as trading, or by a transmission company or distribution company to any other trader, or by any other trader to an end consumer or reticulator. According to engineering experts at NERSA, not all traders would automatically fall under the description of a gas transmission or distribution company from the technical safety point of view.	It is proposed that the definition of trading should only be amended as follows – “trading’ means the [purchase and] sale of gas as a commodity by any person and any <u>activity incidental thereto, including the construction and operation of trading infrastructure, but excluding the construction and operation of liquefaction, re-gasification, transmission, storage and distribution facilities, and “trade” or “trader” have corresponding meanings;</u> ”
	Section 1(g)	Section 1(g) proposes a new definition of “distribution” which excludes eligible customers. It is unclear what informed this proposed exclusion and what problem in the law this proposal seeks to address.	From practical experience, not all eligible customers offtake gas directly from a transmission pipeline. Some eligible customers are served through distribution pipelines therefore the proposed exclusion implies that the pipelines supplying eligible customers below the defined threshold for transmission pipelines in terms of operating pressures would be left unregulated. This creates a regulatory gap and uncertainty and may have unintended consequences as the said eligible customers may be subjected to exploitation by suppliers as the pipeline directly servicing them would be unregulated.	Delete the phrase <u>(excluding eligible customers)</u> in the new definition of “distribution” .
Clause 4 of the Bill – Substitution of section 4 of Act 48 of 2001(“Functions of Energy Regulator”)	Section 4(1)(i)	Enhancement of the proposed new section 4(1)(i) of the Bill	<ul style="list-style-type: none"> • The Competition Commission, ICASA and other economic regulators worldwide are empowered to use market inquiries as a tool to investigate the general state of competition in industries. Therefore, the Gas Act should adequately provide NERSA with powers to conduct market inquiries. • The advantage of market inquiries is that they are a proactive tool to uncover industry-wide practices that may be leading to market failures in the various relevant markets within that industry. Importantly, they provide information and insights into the dynamics and workings of particular industries, without evidence of 	The proposed new section 4(1)(i) of the Bill should be enhanced as follows and a separate new section which we have herein termed section 4(1)(iA), for ease of reference purposes, should be inserted after section 4(1)(i) to deal with market inquiries only – <u>“(i) receive complaints, undertake investigations, or conduct inspections and inquiries into the activities of licensees and activities that are required to be</u>

Section		Issue	Impact	Proposed Solutions
			wrongdoing by any particular firm. Moreover, the information gleaned through an inquiry may be used to determine appropriate enforcement action and policy intervention.	<p><u>licensed or are regulated under this Act, and take appropriate action;”</u></p> <p><u>(iA) conduct market inquiries for the gas market in line with the principles laid down in Chapter 4A of the Competition Act, 1998 (Act No. 89 of 1998) (as amended); and take appropriate action;”</u></p> <p>NERSA also proposes the insertion of a new paragraph (jA) after paragraph (j) in section 34(3) as follows –</p> <p><u>“(jA) the procedure to be followed and issues to be explored when conducting market inquiries referred to in section 4(1)(iA);”</u></p>
	Proposal of new section	It is acknowledged that, like the principal Act, the Amendment Bill intends that the Energy Regulator will continue enjoying the power to consult with government departments and other relevant bodies or institutions regarding any matters contemplated in the Act. However, this function is not necessarily understood to extend to empowering the Energy Regulator to make policy proposal or recommendations to the Minister on any matter contemplated in the Act.	It is expected that the Energy Regulator as the authority closer to the market would from time to time in administering the Act and performing its functions realise that some provisions in the legislation are not yielding the expected outcomes in the gas market and are inhibiting progress that would require policy intervention from the Minister. Therefore, NERSA should have the responsibility to advise and guide the Minister of any negative impact resulting from the implementation of the Act and of other new developments occurring in the market (such as emerging gas technologies) that would require policy support and appropriate regulatory interventions to advance effectively in the industry.	<p>A new section should be added after section 4(1)(u) as follows:</p> <p><u>“(v) make policy proposal or recommendations to the Minister regarding any matter contemplated in this Act.”</u></p>
Clause 8 of the Bill – Amendment of section 16 of Act 48 of 2001 (“Requirements	Section 16(5)	The proposed new section 16(5) requires NERSA to furnish an applicant for a licence with such information as may facilitate the lodging of a licence application.	<ul style="list-style-type: none"> The challenge with this proposed new provision is that it appears under the section which deals with what is supposed to be expected from applicants when they apply for a licence, as opposed to the support that should be expected from NERSA before a person decides to apply for a licence. 	It is proposed that the proposed new section 16(5) be removed as the purpose intended to be served by it is adequately provided for under section 15(4).

Section		Issue	Impact	Proposed Solutions
for licence application")			<ul style="list-style-type: none"> In or about May 2017, NERSA already submitted that what is contemplated under the newly proposed section 16(5) of the Bill would ordinarily happen as part of the interactions between itself and the aspirant applicant under section 15(4)(a) and (b). To this end, NERSA also submitted that adding this proposed new subsection under section 16 has the effect of creating room for ongoing engagements which may possibly result in undesirably prolonged licence application dialogues between the applicants and NERSA and an indeterminate date for the finalization of the licence application process, instead of a clearly defined process whereby NERSA processes the received application mainly in light of the information provided by the licensee. NERSA also highlighted that the addition of this new subsection to section 16 has the effect of shifting the onus of providing the appropriate necessary information at application stage on NERSA; and not on the applicant for the licence concerned as it should be. In summary, therefore, NERSA considers the proposed new section 16(5) a repeat of what should happen under section 15(4). 	
Clause 14 of the Bill – Amendment of section 21 of Act 48 of 2001	Section 21(1)(p)	Section 43A of the Competition Act sets out in detail features of a market that would serve to impede, restrict or distort competition in that market, and should therefore also be referenced in section 21(1)(p) of the Gas Act to give meaning and context to the term inadequate competition.	Section 43A of the Competition Act should be referenced in section 21(1)(p) to give meaning and context to the term inadequate competition.	It is recommended that reference to section 43A of the Competition Act be included in section 21(1)(p).
	Section 21(1)(j)	The newly proposed section 21(1)(j) in Clause 14(b) of the Bill relates to the imposition of a licence condition prohibiting a trader from charging unreasonable or excessive prices. Complementary to this, section 31(1)(b) in Clause 27 of the Bill enjoins NERSA to conduct investigations into unreasonable or excessive	The Bill does not provide a definition for unreasonable or excessive prices, which may create uncertainty as to how these provisions of Bill would be applied or interpreted.	<ul style="list-style-type: none"> It is recommended that the definitions for excessive and unreasonable prices be inserted in section 1 of the Bill, as follows: <u>“Excessive price means a price in excess of the maximum price approved by the Energy Regulator, or a price that is higher than a competitive price and where such difference is unreasonable, determined by taking into account</u>

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	prices or tariffs in excess of the regulated tariff imposed by a licensee upon its customer(s).		<p><u>all relevant factors, which may include, but are not limited to—</u></p> <ul style="list-style-type: none"> (a) <u>relevant comparator firm’s prices and level of profits in a competitive market;</u> (b) <u>price-cost margin, internal rate of return, return on capital invested or profit history;</u> (c) <u>the licensee’s prices—</u> <ul style="list-style-type: none"> (i) <u>in markets in which there are competing products;</u> (ii) <u>to customers in other geographic markets;</u> (iii) <u>for similar products in other markets; or</u> (iv) <u>historically;</u> (d) <u>the length of time the prices have been charged at that level;</u> (e) <u>the structural characteristics of the relevant market, including the extent of the licensee’s market share, the degree of contestability of the market, barriers to entry and past or current advantage that is not due to the licensee’s own commercial efficiency or investment, such as direct or indirect state support for a firm or firms in the market.”</u> <ul style="list-style-type: none"> • The above definition is derived from international case precedent and that of the definition of excessive pricing contained in the Competition Act. • In addition, it is recommended that a definition for an unreasonable price be inserted in section 1 of the Bill, as follows: <ul style="list-style-type: none"> <u>“Unreasonable price means a price that is discriminatory, predatory, or exclusionary in nature.”</u>

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Clause 15 – Substitution of section 22 of Act 48 of 2001 (“Non-discrimination”)	Section 22(2)	<p>The proposed section 22(2) of the Bill states that:</p> <p><i>The prohibition of discrimination referred to in subsection (1) applies to actions by licensees in favour of their related undertakings, <u>including a company that is in a group of companies, in particular.</u></i></p>	<ul style="list-style-type: none"> • This aforementioned provision limits the application of the discrimination provisions in section 22(1) of the Bill to firms that are vertically integrated in the gas industry, and therefore does not extend to unjustified discriminatory conduct by firms that are not vertically integrated in the industry. • This results in a regulatory gap, which will serve to promote anticompetitive discriminatory conduct by some firms in the industry, particularly those firms that are not regulated. 	<p>It is recommended that section 22(2) of the Gas Amendment Bill be removed in its entirety.</p>
Clause 16 of the Bill – Insertion of sections 22A and 22B in Act 48 of 2001 (“Exclusivity”)	Section 22A(6)	<p>Section 22A(6) of the Bill empowers the Energy Regulator to undertake annual review of the plan contemplated in in subsection (5).</p>	<ul style="list-style-type: none"> • NERSA welcomes the proposal for the provision of conditional exclusivity in distribution areas as outlined in section 22A. However, the proposal to have the annual review of the development plan is too prescriptive to be included in a primary legislation and may result to regulatory uncertainty, as it does not provide long-term guarantee of the exclusive distribution rights granted by the Energy Regulator at the licensing stage. The prescribed period is too short and may discourage further investments in the distribution areas as investors would not know what would happen when the Energy Regulator undertakes the annual reviews. 	<p>It is recommended that “annual review” be changed to “Periodic review” in section 22A(6) of the Bill.</p>
Clause 19 of the Bill – Substitution of section 25 of Act 48 of 2001 (“Compliance notice”)		<p>The revocation of licences currently provided for under section 25 is now proposed to be substituted for “surrender of licences” by licensees. In line with this proposed new amendment, section 25(3) provides that the form and procedure to be followed in surrendering a licence is as prescribed by the Energy Regulator.</p>	<p>As previously submitted to DMRE, NERSA takes no objection to the substitution of the term “revocation” for surrender. However, what remains outstanding now is a provision that will govern the process for surrendering licences in line with the proposed new section 25(3); instead of proceeding with referring to the term “revocation” which is already proposed to be deleted from section 25.</p>	<ul style="list-style-type: none"> • It is proposed that the proposed new paragraph (hA) under 34(3) of the Bill be enhanced as follows – <u>“(hA) the procedure to be followed in processing suspensions of licences and in considering licence surrender and revocation applications”.</u> • The reason for this proposed further enhancement is to ensure that NERSA’s powers to make rules under the said proposed new paragraph (hA) is exactly in line with the newly proposed wording of section 25 as well. NERSA acknowledges that the

Section		Issue	Impact	Proposed Solutions
				reference to the making of rules regarding the process for surrendering a licence may have been inadvertently deleted when the Department was capturing its most recent proposals about the inclusion of the process for suspension of licences referred to in the proposed new section 26(4). But even with regard to the current capturing of the proposed new section 34(3)(hA) on the process for suspension of licences, NERSA submits that the correct wording should not relate to “considering and processing suspension... applications” as the proposed new section 26(4) makes it clear that such process is not really triggered by the receipt of an application from the licensee.
Clause 31 of the Bill – Amendment of section 34 of Act 48 of 2001	Section 34(3)(c) and (f)	The new proposal in clause 31(k) and (l) of the Bill is that the rules made by NERSA under section 34(3)(c) and (f) must also include the form, manner and contents of applications for exemptions from complying with the Act, as well as the procedure to be followed in considering exemption applications.	In terms of the last part of clause 32 of the Bill which deals with the proposed new section 34C, the power to issue and publish exemptions is vested with the Minister. Nothing in the Bill suggests that such exemptions will have to be applied for on an individual basis. Instead, the proposed new section 34C lists three grounds which may serve as basis for the Minister to issue and publish a blanket call to exempt everyone from compliance with the Act.	It is proposed that the specific parts in section 34(3)(c) and (f), dealing with exemption applications, need not be legislated for at all since the issuing and publishing of blanket exemptions is envisaged to be a Ministerial initiative. Alternatively, if there is a need to legislate for these, NERSA proposes that they be moved from section 34(3) to section 34(1) dealing with the making of ministerial regulations.
Clause 32 of the Bill – Insertion of new section 34C in Act 48 of 2001	Section 34C	The Bill proposes the insertion of a new section 34C which is modelled on section 79 of the National Ports Act, 2005.	The basis for this proposed new insertion remains unclear to NERSA. However, it is the view of NERSA that the similar provisions are part of the National Ports Act on the basis that the South African ports are part of national key points. NERSA is not aware of a similar policy position having ever been adopted in respect of natural gas infrastructure.	It is proposed that the basis for new section should either be clarified more extensively in the Memorandum on the Objects of the Gas Amendment Bill or that this new section be removed if the basis for its insertion cannot be clearly justified.
Clause 34 of the Bill – Amendment of	Clause 34(b)	Clause 34(b) proposes to add two items at the end of Schedule 1. One of these two newly proposed additions is item 6, which we reckon should actually be	<ul style="list-style-type: none"> • NERSA is concerned that this proposed exemption does not seem to have a purpose and is not aligned with the objects of the Bill. 	It is proposed that the new item 6 sought to be added to Schedule 1 by clause 34(b) of the Bill should be deleted. If retained, the exemption must be based on

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Schedule 1 of Act 48 of 2001		item 5 and the item before it should be item 4, which seeks to exempt the trading in gas by a person where the quantity of gas sold is less than a quantity as prescribed by the Minister in a year from the licensing requirements of the Act.	<p>Further, it is unclear what objective this policy position seeks to address in the gas industry.</p> <ul style="list-style-type: none"> Exemptions on trading may have unintended consequences as traders may not want to grow beyond the threshold to avoid regulation. It will impede small traders from expanding and growing the gas market. Leaving some trading activities unregulated would have detrimental harm to customers as the affected traders may charge higher prices that cannot be controlled by the Energy Regulator and such customers would not enjoy any form of protection from the Regulator in terms of the Act. 	competitive prices in line with the Act. There must be annual reports to assess this outcome.

C. PROPOSALS FOR NEW SECTIONS TO BE INSERTED IN THE BILL

Section		Issue	Impact	Proposed Solutions
New proposals from NERSA regarding registrations <ul style="list-style-type: none"> - New section 21A - New section 23A - New section 25A - New paragraph (iA) after section 34(3)(i) under 		Like the current Gas Act, the Amendment Bill provides for the registration of some specified activities which are exempted from the licensing regime. Unlike the licensing regime, however, no provisions for imposition of registration conditions and the cancellation of registrations currently exist.	The current gap regarding the imposition of registration conditions yields some level of uncertainty as to the legal status and enforceability of any conditions that NERSA imposes under no express authority in the Act. The absence of statutory provisions in the Act regarding the cancellation of unwanted registrations only leaves NERSA with the option to go about it by way of judicial review under the principle of legality when the need arises. The disadvantage of this is that it may sometimes take much longer to finalize and it could come at a cost that may be circumvented if done internally.	<ul style="list-style-type: none"> Insert a new section 21A after section 21 to provide for imposition of registration conditions as follows – <p><u>“Registration conditions</u></p> <p><u>21A. (1) For any activity registered in terms of this Act, the Energy Regulator may impose any condition that it is demonstrably consistent with the nature and extent of the activity concerned and the fulfilment of one or more of the objects of this Act.</u></p> <p><u>(2) The provisions of section 21(2) shall apply with changes necessitated by context</u></p>

	<p>clause 30 of the Bill</p>			<p><u>in respect of persons aggrieved by any registration condition imposed under subsection (1).”</u></p> <ul style="list-style-type: none"> • Insert a new section 23A after section 23 to provide for registration term and non-transferability <p><u>“Registration term and non-transferability</u></p> <p><u>23A. (1) Registrations made under this Act are valid for the period stated in the registration certificate and no registrant may assign, cede or transfer its registration to another person.”</u></p> <ul style="list-style-type: none"> • Insert a new section 25A after section 25 to provide for cancellation of registrations along the following lines – <p><u>“Cancellation of registration</u></p> <p><u>25A. (1) The Energy Regulator may cancel a registration in terms of this Act –</u></p> <ul style="list-style-type: none"> (a) <u>on application by the registrant concerned;</u> (b) <u>on registrant's failure to comply with any condition of its registration or with the provisions of this Act, which failure has been the subject of a compliance notice in terms of section 26 and has not been rectified following the issuance of such compliance notice;</u>
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				<p>(c) <u>on registrant's repeated failure to comply with any condition of its registration;</u></p> <p>(d) <u>on registrant's repeated contravention of the provisions of this Act; or</u></p> <p>(e) <u>when no meaningful purpose can be discerned from the continued registration of any activity.</u></p> <p>(2) <u>The procedure to be followed in cancelling any registration is as prescribed.</u></p> <p>(3) <u>Any registration cancellation takes effect from the date of decision by the Energy Regulator, and no one may engage in a formerly registered activity after this date."</u></p> <ul style="list-style-type: none"> • Insert a new paragraph (iA) after section 34(3)(i) under clause 31 of the Bill to provide NERSA with powers to make rules regarding the form, manner and procedure to be followed for cancelling registrations as follows – <p><u>"(iA) the procedure to be followed in effecting registration cancellations;"</u></p>
<p>New proposal regarding price discrimination provisions</p>	<p>New section 22(1A)</p>	<p>NERSA notes new developments resulting from the insertion of section 9(1)(a)(ii) to the Competition Act, 1998 (Act No.89 of 1998) by the Competition Amendment Act, 2018 (Act No. 18 of 2018) assented to in February 2019, which may have some impact on the future price and tariff regulation in the piped gas industry, and which may result in</p>		<p>To overcome issues of alignment with the amendments to the Competition Act, NERSA proposes the insertion of a new provision under the current section 22(1) in the manner as near as possible to the following –</p>

		issues of alignment between Section 22(1) of the Gas Act and the Competition Act, as amended. A detailed analysis regarding this matter is provided in a separate submission.		<u>"22 (1A) Nothing in this subsection shall be construed as promoting non-adherence to the provisions of section 9(1)(a)(ii) of the Competition Act, 1998 (as amended)."</u>
New proposal regarding mandatory third party access to LNG facilities	Section 34(3)(g)	The newly proposed section 34(3)(g) in the Bill, which relates to the making of Rules by the Energy Regulator regarding the methodology for determining uncommitted capacity and the publishing of information relating to uncommitted capacity only talks about transmission, distribution and storage licensees. As such, it appears that mandatory TPA in regasification facilities and gas storage tanks associated with regasification activities (including FSRUs) may not be possible when such storage tanks will be used solely for purposes of providing storing facilities necessary to enable the constant transfer of the LNG fuel from the LNG supply tankers in order to eliminate depletion of the required amount of LNG that is to be regasified.	LNG regasification and storage facilities (whether onshore or floating) have the potential to be an important source of supply to the South African gas markets with the potential to contribute to security of supply and the development and growth of transformed and competitive gas markets. These facilities will form a crucial part of the gas value chain in South Africa. As such, the development and growth of transformed and competitive gas markets will remain hampered if access to such facilities are inaccessible to existing and new players seeking to enter and/or expand their gas businesses. It is therefore critical that regulated mandatory TPA is applied to such facilities. Such TPA may accommodate LNG carried from other third party suppliers for sale to traders in South Africa who, in turn, may make it available to existing and new industrial and vehicular customers. This would be in line with the approach in countries such as China, Mexico, Brazil and the EU.	To overcome these challenges, NERSA proposes that the Gas Act makes TPA to LNG facilities mandatory. It is therefore recommended that LNG licensees also be included in the newly proposed section 34(3)(g) of the GAB, as follows: <i>"34(3)(g) <u>the methodology for determining uncommitted capacity and the publishing of information relating to uncommitted capacity by the holders of liquefaction, regasification, transmission, <u>distribution</u> or storage licences and the publishing of prices for gas supplied to customers other than eligible customers by the holders of [distribution] trading licences;"</u></i>