

Department of Energy

Establishing the Independent System & Market Operator (ISMO)

March 2012



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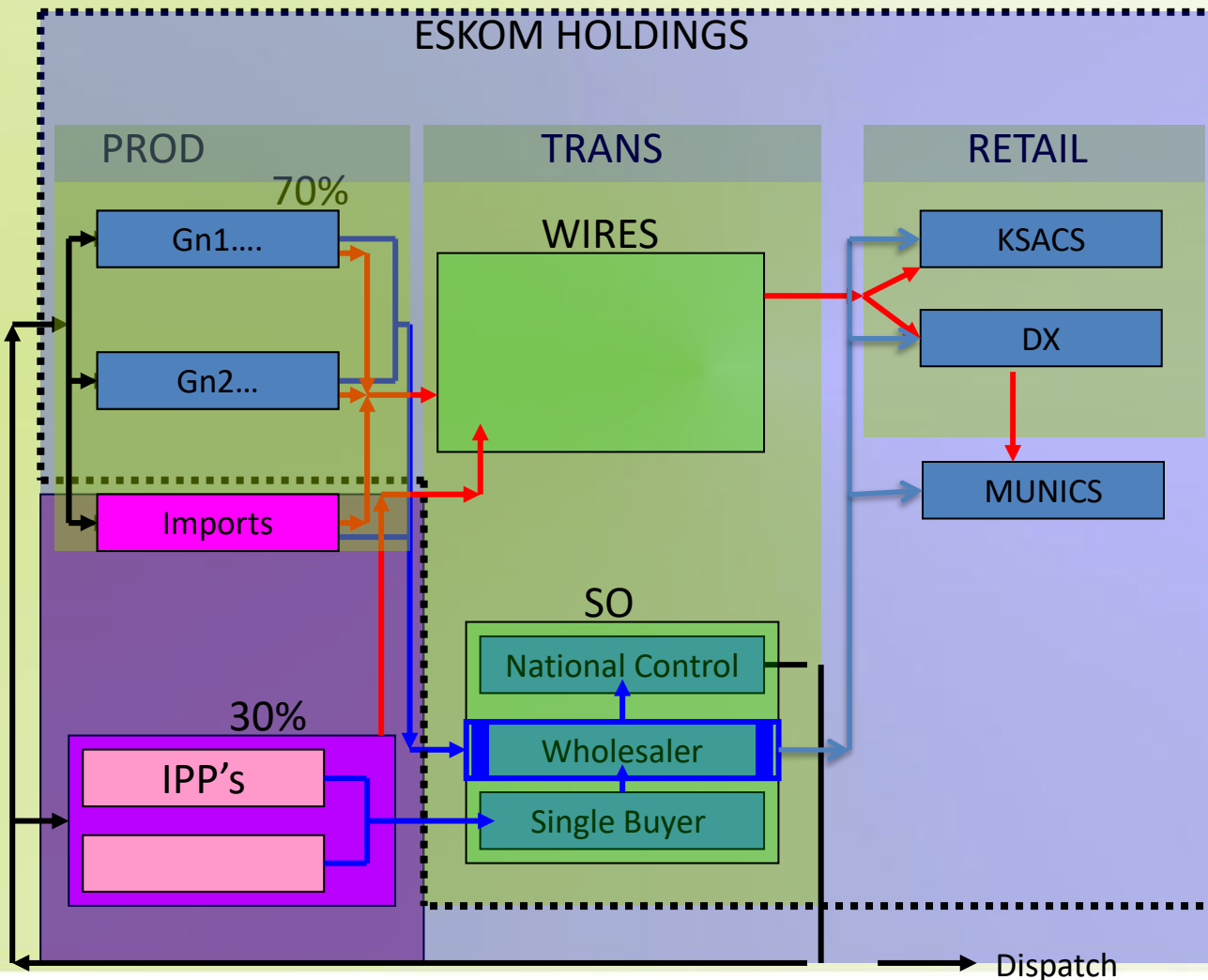
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CURRENT INDUSTRY STRUCTURE



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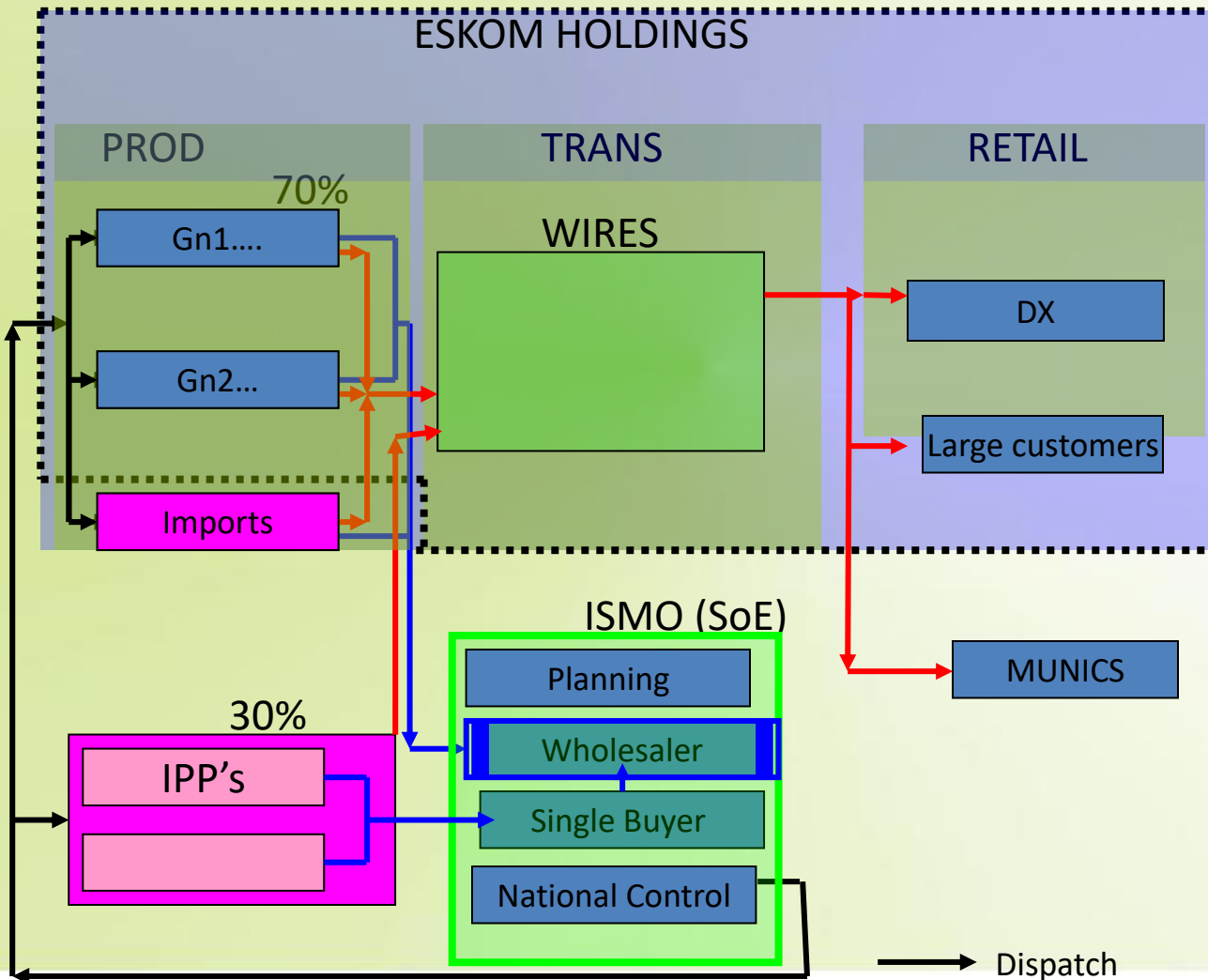
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Trading (Aggregation)

MW Flow

Wholesale tariff

PROPOSED STRUCTURE



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WHAT IS AN ISMO?

Acronym for “Independent System and Market Operator”

- “Independent” = Autonomy from generation and distribution
- “System” = National Electricity Transmission System
- “Market” = Buying of electricity from electricity generators and Selling thereof to customers at a wholesale level

ISMO = Operator of National Electricity Transmission System who buys electricity from generators and sells it to customers at a wholesale level



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WHY ISMO?

- Electricity sector requires additional MW to support the economic growth and Eskom will not be in a position to raise the required funding
- For Eskom to build all the required new generation capacity, steep electricity increases will be required to maintain Eskom credit rating
- Steep increases will have negative impact on the economy whilst Independent Power Producers will be required to take the risk and ISMO will pay only for the delivered power in terms of the PPA
- Projects such as the cogeneration will not require government guarantees and may come at a lower tariff compared to the Eskom build programme
- ISMO will assist in providing independent dispatch of power from all generators in an efficient manner to minimize costs to the consumer



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PURPOSE OF THE ISMO BILL

- Objects of the ISMO Bill provide for:
 - Establishment of ISMO as a juristic person with a board appointed by the Minister of Energy
 - ISMO to be an independent public entity which is financially viable to deliver on its mandate
 - Establishment of an electricity wholesale providing future opportunity for qualifying customers to purchase electricity at a wholesale price
 - ISMO to be a buyer of power from electricity generators in a transparent manner and promote efficiencies within the electricity value chain
 - Efficient dispatch of electricity generators in accordance with the dispatch rules under the Electricity Regulation Act
 - Planning for new generation capacity in accordance with government policy



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ISMO FUNCTIONS

- ISMO Bill establishes, an autonomous state owned company, mandated to execute the following functions
 - **Buying of power from generation** – ISMO will not be involved in power generation. All generators will have equal opportunity to sell power to ISMO including cogenerators
 - **Electricity wholesale** – the sale of electricity to distribution and large customers will be independent of Eskom. All distributors and large customers will have equal access to the wholesale price
 - **System Operations** – ISMO will also be the system operator and dispatch all generators efficiently and minimise cost to the consumer
- ISMO will be a licensed entity under the Electricity Regulation Act (ERA). It is noted that some of the functions are currently not licensable activities hence the ERA is also under review
- The need for independent transmission is noted and it will be addressed in due course



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CHAPTER 3: COMPOSITION OF ISMO BOARD

- ISMO Board may consist of 9 members
 - Not more than 7 non-executive members
 - 2 executive members
 - The Minister should appoint one board member as a the chairperson whilst the board must elect the deputy chairperson
 - A member holds office for four years but may be reappointed
 - Each member may not serve as a board member for more than 8 years



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CHAPTER 3: COMPOSITION OF ISMO BOARD cont...

- Appointment of non-executive Board members
 - The Minister must invite applicants through at least two news papers and in the government gazette
 - The Minister must appoint a nomination committee to consider applications and make recommendations
 - The nomination committee must be represented of various racial groups and should include both males and females
 - The Minister in appointing the board members, must ensure that it is representative



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SECRET

ISMO STAFF

- Appointment of the Chief Executive Officer and the Chief Financial Officer
 - The board must invite applications for the CEO and the CFO positions
 - The board must, with the approval of the Minister, appoint the CEO and the CFO
 - Both the CEO and the CFO must serve at the board as executive members
 - The CEO and the CFO must have the experience relevant to the ISMO functions
 - The CEO may be appointed for a period of 4 years and may be reappointed for a second term



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ISMO STAFF cont...

Conditions of appointment of CEO and CFO

- The CEO and the CFO will be subject to annual performance agreement
- Appointed by the Board with the concurrence of the Minister for a period not exceeding 4 years
- The remuneration package to be approved by the Minister with the concurrence of the Minister of Finance



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TERMINATION OF EMPLOYMENT OF CFO AND CEO

- The board, with the concurrence of the Minister, may terminate employment of CFO and CEO:
 - for misconduct
 - for failing to perform the duties connected with the office
- The board may suspend service of the CEO and the CFO pending misconduct proceedings
- The CEO and the CFO may resign by written notice of at least 30 days to the chairperson of the board
- The board may in writing appoint an acting CEO or CFO:
- The acting CEO or acting CFO, should have all the necessary powers to perform the duties related to the office



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APPOINTMENT OF STAFF

- The CEO may, may enter into employment agreement with a person for performance of specific duties with recruitment policy approved by the board
- All employees of Eskom Holdings employed in the fulfilment of the functions contemplated in this Act, including support staff, must be transferred to ISMO
- Personnel may be transferred or seconded to ISMO from the public service subject to the provision of the Public Service Act



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FUNDING AND FINANCIAL ACCOUNTING OF ISMO

- Loans and Government Guarantees for loans
 - The state may grant loans to ISMO from money made available by Parliament
 - ISMO may pay interest on such loan at a rate determined by the Minister in concurrence with the Minister of Finance
- ISMO must
 - No later than 30 days of each financial year, submit its business plan and financial plan for the following year for the approval of the Minister
 - The business plan and the financial plan for the first year must be submitted within 90 days from the date of incorporation



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FUNDING AND FINANCIAL ACCOUNTING OF ISMO

The ISMO Business Plan and Financial Plan must include:

- Projects and operational costs
- Planned performance indicators
- Statement with estimated income and expenditure for the financial year



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FUNDS AND ASSETS

- Funds and assets may consist of:
 - Assets and right transferred to ISMO
 - Funds acquired from performance of its functions
 - Shareholder contributions
- All normal cost of ISMO must be recovered from
 - Tariffs and fees
 - Charges permitted through legislation
- ISMO may not dispose majority of its assets without approval of the Minister of Finance
- ISMO may refuse to provide part of its service until such time a customer has paid outstanding fees



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OTHER PROVISIONS

- Powers of entry and inspection
 - ISMO may enter any land for purpose of inspection, investigation and etc
 - In doing inspection, ISMO should make the necessary arrangement with the occupant before entering the premise
 - Any person failing to comply with the provision of this section, ISMO may disconnect such person or request entry through a court order
 - ISMO is oblige to pay for damages related to such inspection



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OTHER PROVISIONS cont...

- Intervention by Minister
 - The Minister may intervene if ISMO is in financial difficulties
 - Fail to perform its duties
 - The intervention may include appointment of an Administrator to temporarily handle the affairs of ISM
- Offences and penalties
 - Any person failing to comply with the provision of the Act, is guilty of offence and fine may be imposed or imprisonment for a period not exceeding 5 years



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OTHER PROVISIONS cont...

- Regulations
 - The Minister may promulgate regulations functioning of the board, incidental administrative to ensure effective functioning of the board
 - Regulations must be drafted after consultation with the board and with cabinet on policy related matters
 - The proposed policy must be tabled at National Assembly before its publication in the government gazette
- Transfer of functions
 - The Minister may, in consultation with Cabinet, determine the date for the transfer of the functions to ISMO
 - ISMO must enter into contractual arrangements with Eskom for the execution of the functions and contracts to be finalised within 3 months from the incorporation date



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OTHER PROVISIONS cont...

- Transitional Provisions
 - The Minister must publish in the government gazette a notice with a date for the transfer of assets
 - Within the time frame stipulated in the notice, Eskom must compile a list of assets and liabilities to be transferred to ISMO
 - The ISMO board must consider the list and consult with Eskom if necessary
 - Upon agreement between the Board and Eskom the Minister must determine, through a notice in the gazette, the assets and liabilities to be transferred to ISMO including the date for the transfer



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CLOSING REMARKS

- The Bill was adopted by Cabinet and was also published in the government gazette for public comments
- Comments received during the public consultation process include:
 - The need for ***independent transmission lines*** to minimise connection risks. This matter was debated at intergovernmental level and it was agreed that more work needs to be done before taking a decision
 - The concept of ***willing buyer-willing seller*** which we believe needs to be addressed through the Electricity Regulation Act
 - The need for a ***stakeholders' representative on the ISMO board***, of which we believe government should have the prerogative to appoint members of the board given the government exposure in this regard



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CLOSING REMARKS cont...

- **Generation licence and allocation** of MW in terms of the IRP, of which we believe this issue needs to be addressed under the Electricity Regulation Act
- **Bulk electricity supply and network tariffs**, the Bill does not address this issue because the regulator is required to approve the tariffs in this regard. Any tariff issues will have to be addressed under the Electricity Regulation Act



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