



## INVITATION TO COMMENT ON THE APPLICATION BY SUNRISE ENERGY (PTY) LTD

The National Energy Regulator of South Africa (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 the electricity, piped-gas and petroleum pipelines industries in terms of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), Gas Act, 2001 (Act No. 48 of 2001) and Petroleum Pipelines Act, 2003 (Act No. 60 of 2003).

NERSA has received the following amendment application:

Licensee Name	Description	Licence Number
Sunrise Energy (Pty) Ltd	Application for the second amendment of the conditions of a licence issued for the construction of liquefied petroleum gas storage and loading facilities in Saldanha Bay, Western Cape Province.	PPL.sf.F1/88/2009

The application is available on NERSA's website at <http://www.nersa.org.za> under 'Notices/Invitation to comment'. The original licence conditions issued are also available at <http://www.nersa.org.za> under 'Licences'.

Stakeholders and members of the public are invited to comment on the application in writing. Requests for the confidential treatment of information contained in the comments submitted must be made in accordance with rule 4 of the Petroleum Pipelines Act Rules, 2014 (GN R 1140 in GG 38308 of 12 December 2014) ('the Rules'). The Rules are also available on NERSA's website at <http://www.nersa.org.za> under 'Petroleum Pipelines/Legislation'.

Written comments must be sent to NERSA for the attention of Mr Martin Untiedt at:

**Post:** Petroleum Licensing, Compliance and Dispute Resolution  
The National Energy Regulator of South Africa  
PO Box 40343  
Arcadia  
Pretoria, 0007

**Email:** [pipelines@nersa.org.za](mailto:pipelines@nersa.org.za)

**Fax:** 012 401 4700

**The closing date for comments: 08 June 2018**

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FORM E

APPLICATION FOR AN AMENDMENT OF A LICENCE IN TERMS OF SECTION 23 OF THE PETROLEUM PIPELINES ACT, 2003 (ACT NO. 60 OF 2003)

**INSTRUCTIONS**

1. Before completing this form, you are advised to read the following documents:  
(a) the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003) and its Regulations; and  
(b) the Rules made in terms of the Petroleum Pipelines Act, specifically rule.
2. Please note that this form has five sections (A, B, C, D & E). An applicant must provide all information and supporting documentation required. Incomplete applications will not be accepted.
3. The completed form with supporting documentation must be delivered to the Energy Regulator:  
(a) by registered mail to: P O Box 40343, Arcadia 0007; or  
(b) by hand at: Kulawula House, 526 Madiba Street, Arcadia, Pretoria; or  
(c) electronically to [pipelines@nersa.org.za](mailto:pipelines@nersa.org.za); or  
(d) by fax to 012 401 4700.
4. If you want to request the confidential treatment of certain information in your application, you must do so in accordance with rule 4 of the Rules made in terms of the Petroleum Pipelines Act.

**Enquiries:**

Contact:	Executive Manager: Petroleum Pipelines Regulation
Contact No.:	(012) 401 4600
Fax No.:	(012) 401 4700

**Official Use Only**

Date received  
Reference number

**SECTION A: CATEGORY OF THE APPLICANT**

1. Indicate if you are the licence holder or a party affected by the licence by ticking the appropriate box below:  
I am the licence holder   
I am a party affected by the licence

**SECTION B: DETAILS OF THE APPLICANT**

2. Full registered name of the applicant: **SUNRISE ENERGY PROPRIETARY LIMITED**
3. Trading name of the applicant (if different from the registered name) **N/A**
4. Registration number of company (if applicable) **2005/027952/07**
5. Name of mandated representative (if applicable). Attach documentary proof of mandate given to representative **PIETER DERRICK COETZEE**
6. Physical address:  
**99 JIP DE JAGER  
DRIVE, VINEYARDS  
OFFICE ESTATE,  
BELLVILLE  
7530**
7. Postal address:  
**AS ABOVE**

*Q*

8. Telephone  
number: **021 913 7000**
9. Fax Number:  
**086607813**
10. Email address: [pieter@mogscopt.co.za](mailto:pieter@mogscopt.co.za)
11. Details of mandated representative, including:
- (a) designation: **CHIEF EXECUTIVE OFFICE**
  - (b) family  
name: **COETZEE**
  - (c) first name:  
**PIETER**
  - (d) telephone  
number: **021 913 7000**
  - (e) fax number:  
**086607813**
  - (f) email address: : [pieter@mogscopt.co.za](mailto:pieter@mogscopt.co.za)

#### SECTION C: DETAILS OF THE LICENCE

12. Name of licensee: **SUNRISE ENERGY PROPRIETARY LIMITED**
13. Type of licence or licensed activity to which this application is applicable: **CONSTRUCTION LICENCE**
14. Location of the facility: **SALDANHA BAY, WESTERN CAPE**
15. State the licence number (if known): **PPL.SF.F1/88/2009**

#### SECTION D: DETAILS OF THE APPLICATION

16. Clearly indicate the amendments that you seek. Please indicate each amendment sought separately and provide details thereof. If the amendment is to a particular condition, cite the condition. (Add additional page(s), if necessary).
- 16.1 The deletion of the references to -  
+ Three (3) rail tanker loading gantries;  
from paragraph 1.1(a) of the licence conditions;
- Alternatively an extension of the time within which they are to be constructed so that the same will be constructed within 24 months after Phase 3 of its facility has been completed.
- 16.2 The addition of the following sentence after Paragraph 11.3:  
"Notwithstanding the foregoing, the extension to the LPG cylinder filling facilities in Phase 1 shall be completed within 48 months of commencement of that phase.
17. Provide detailed reasons and motivation for each of the amendments sought in 16 above (add additional page(s), if necessary).  
See annexure "A" hereto
18. Substantiate your reasons and motivation in 17 above by submitting documentary proof of your claims.
19. Where the amendment sought is an amendment to an existing tariff, information listed in rules 12 (7) and 12 (8) must also be provided.

#### SECTION E: SOLEMN DECLARATION BY APPLICANT OR MANDATED REPRESENTATIVE

I, (full name) **PIETER DERRICK COETZEE**

Identity Number:



hereby declare that:

- (a) I am authorised by the board of directors of the applicant to make this declaration (attach the authorisation); and
- (b) all information provided herein is within my personal knowledge and is both true and correct.

Signed at *Belville* (place) on this *9<sup>th</sup>* day of  
*March* (month) *2018* (year).

Signature *[Signature]*

I certify that the deponent:

- (a) has acknowledged that she/he knows and understands the contents of this application form and its annexures, that she/he has no objection to taking the prescribed oath and that she/he considers the oath binding on her/his conscience; and
- (b) has in the prescribed manner sworn that the contents of this application form and its annexures are true and signed same before me at *Belville* (place) on this *9<sup>th</sup>* day of *March* (month) *2018* (year).

**COMMISSIONER OF OATHS**  
Name: *[Signature]*  
Address: .....  
Capacity: **COMMISSIONER OF OATHS (RSA)**  
**Stephen Royston Glover CA (SA)**  
The Vineyards Office Estate  
Bellville

*[Handwritten mark]*

REASONS AND MOTIVATION FOR THE AMENDMENTS SOUGHT TO SUNRISE ENERGY'S CONSTRUCTION LICENCE CONDITIONS

SECTION D: DETAILS OF THE APPLICATION

1. Sunrise Energy (Pty) Ltd ("Sunrise") was granted a construction licence ("the construction licence") by the National Energy Regulator of South Africa ("NERSA") on 23 February 2011 in respect of a petroleum storage facility and a petroleum loading facility, situated at Saldanha Bay, Western Cape.
2. With effect from 29 April 2013, Paragraph 1.1(a) of the construction licence was amended to include, in Phase 1 of the petroleum storage facility, three rail tanker loading gantries and extensions to the LPG cylinder filling facilities, to be operated by a third party.
3. Paragraph 11.3 of the amended construction licence provides that *"the construction of the facilities must be completed and ready for operation within 24 months of the commencement, for each phase."*
4. Accordingly, by February 2018, the construction of three rail tanker loading gantries and the extensions to the LPG cylinder filling facilities ought to be completed.
5. Sunrise wishes to amend the conditions of its construction licence by
  - 5.1. the deletion of the reference to the three rail tanker loading gantries, alternatively the extension of the time within which they are to be completed; and
  - 5.2. extending the date by which construction of the extensions to the LPG cylinder filling facilities must be completed.
6. The reasons for the application for the amendment of the aforementioned conditions are set out herein:

CONDITION RELATING TO THREE RAIL TANKER LOADING GANTRIES

7. Sunrise realised during 2015 that the construction of a rail siding on the Southern side of the Sunrise storage facility is not feasible for the reasons stated below:

- The gradient from the existing railway line to the proposed gantry site, is too steep to allow rail car access;
  - The Sunrise site does not allow sufficient siding length to accommodate the required number of rail cars; and
  - The Tippler 3 project of Transnet to increase the capacity of the iron ore export facility does not allow a rail siding feed from the existing railway lines.
8. Sunrise therefore commissioned a rail siding options report from Lyners Consulting Engineers and Hatch, expert consultants in the area of rail sidings, their location, construction and operation.
  9. On 8 May 2017, Lyners and Hatch provided a rail siding options report to Sunrise, a copy of which is attached hereto marked annexure "A1".
  10. Lyners and Hatch investigated the various rail wagon options, siding lengths, fleet sizes and siding location options.
  11. Of the eight locations identified, all were ruled out for various reasons, as is apparent from Annexure "A1".
  12. Sunrise commenced and is now engaged in discussions with Transnet Freight Rail to locate an alternative site for the implementation of the rail loading siding and therefore, through no fault of its own, Sunrise is unable to comply timeously with the condition which requires it to construct the three rail tanker loading gantries at the Sunrise site by February 2018. Should a suitable alternative rail siding be developed by TFR, it will not be located on the Sunrise site as originally envisaged.
  13. Accordingly, Sunrise seeks to have the references to the three rail tanker loading gantries deleted from the conditions of its construction licence relating to Phase 1 of its terminal, or any of the subsequent phases 2 and 3.
  14. In the alternative, and although it appears that it is impossible to comply with the relevant condition for the reasons stated above, in the event of the application for deletion of the condition being refused by NERSA, Sunrise seeks an extension of the period within which it is to construct the rail siding to a date 24 months after Phase 3 of its facility has been completed.

## EXTENSIONS TO THE LPG CYLINDER FILLING FACILITIES

15. Sunrise has at all times intended for the cylinder filling facility to constitute a portion of its enterprise development contribution in respect of its corporate social investment strategy.
16. Sunrise therefore appointed an entirely black owned LPG distributor , Kusile Gas, to construct and operate the cylinder filling facility, which appointment was concluded as early as 3 June 2013. Since then a number of changes occurred and a new agreement was entered into between Kusile Gas and Sunrise on 19 October 2016.
17. As a result of various factors, Kusile Gas has not yet commenced construction of the facilities but it is anticipated that these will be commenced in the medium term. These factors include:
  - 17.1. that Avedia Energy is able to discharge LPG over the berth at a cost that does not include a pipeline fee, and hence sell its LPG at a much cheaper rate, and hence there is consequently no demand for cylinder-filling facilities from the Sunrise storage facility at this time; and
  - 17.2. that the cylinder filling facility is also not material for the receipt, transporting via pipeline and dispatch via road of LPG via the Sunrise facility, which are the core activities of Sunrise . The cylinder filling facility is a purely downstream or end user aspect.
18. A letter from Kusile Gas to Sunrise Energy, dated 15 January 2018, sets out its concerns and certain of the reasons for commencement of the cylinder-filling facilities not taking place. A copy of this letter is attached hereto, marked annexure "A2".
19. Accordingly, Sunrise requests an extension of the time period within which the cylinder filling facilities are to be constructed by a further period of 24 months.