Regulation and the barriers to investing in economic infrastructure in South Africa

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Abstract

South Africa (SA), like many other developing countries, has a policy of investing in economic infrastructure to achieve economic growth. However, economic data show that SA’s investment rate as a percentage of gross domestic product (GDP) is the lowest of the BRICS countries [6]. Meeting the demand for energy and specifically petroleum products is essential to the economic activity of the country. Years of under-investment in infrastructure in SA to manufacture, transport, handle and store petroleum products have resulted in limited and fairly old petroleum facilities. This situation may be no different for other industries. Therefore, the SA government recently announced a renewed investment initiative whereby ‘the Presidential Infrastructure Coordination Commission will oversee the implementation of infrastructure projects that stimulate social and economic growth’ [8].

The establishment of independent economic regulation of network utilities and infrastructure (energy including petroleum, piped-gas, electricity; transport; telecommunications; water) emerged just over then years ago [6]. The need for regulation of such ‘essential’ economic infrastructure and utility services arose from some being state-owned enterprises due to historic reasons, while market dominance by incumbents and monopolistic behaviour may also require regulation to introduce competition and ensure efficient service delivery. The emphasis is now placed on regulation which protects consumers, attracts investors and enables government to achieve its policy objectives [4]. This paper aims to investigate the impact of economic regulation on investments within the context of the petroleum pipelines industry, consequential to the establishment of the National Energy Regulator of South Africa (NERSA) in December 2005. NERSA’s mandate is to regulate the down-stream petroleum sector consisting of pipelines, loading facilities and storage facilities in terms of the Petroleum Pipelines Act (Act No. 60 of 2004).

Since NERSA’s inception, 23 licences were granted to construct new petroleum infrastructure or additional capacity at existing petroleum facilities. If all these come to fruition, the total investment will be approximately R35 billion [7]. However, R23.4 billion of the total is public sector investment in one project, while five private sector projects amounting to R8.8 billion have not yet commenced with any actual construction activities. Furthermore, many of these projects in progress have experienced major schedule delays and/or cost overruns as a result of the challenges related to the various regulatory processes involved. Consequentially, the country’s economic growth potential is negatively affected. It seems that ‘South Africa is not alone in its current investment challenges’ [9]. Investors in India’s downstream petroleum sector seem to experience a similar situation of many slow-moving state authorisations and procedures [5].

This research paper seeks to investigate and encourage dialogue ‘around the role, relationships and responsibilities of the different role players’ [3] and the perceived barriers to entry and the challenges experienced when investing in specifically petroleum infrastructure. A number of research questions arise: Has economic regulation facilitated investment in the petroleum pipelines industry as envisaged by the relevant legislation? Secondly, has the newly established regulatory regime facilitated the delivery of essential infrastructure in a prudent manner ‘in the face of key financial, social and environmental imperatives in South Africa’ [1]? Thirdly, what are the barriers that new entrants face when investing in such infrastructure and how can these be reduced? Fourthly, how do the investment barriers in South Africa compare to those in other developing countries?

The proposed research methodology consists of a review of the construction licence applications submitted to NERSA to date, as well as a review of the literature relevant to investment and economic regulation. An online survey instrument will also be used to determine what new entrants perceive to be barriers to entry.

The proposition is that despite interest by the private sector, uncertainty and ‘investor risk is still discouraging’ [3] as a result of the large investment amounts required, the overlapping regulatory mandates having different processes and priorities, the duration of these processes, the high level of uncertainty and the financial risk to execute especially ‘green fields’ projects. It is proposed that other regulated network industries in SA may have similar barriers in terms of the ‘policy-planning-regulation interface’ [1] and that a more coherent regulatory framework is needed in terms of the responsibilities, mandates, and clear policy objectives [3] to address the perceived barriers to entry that new investors face and ‘ensuring a conducive investment climate’ [4].

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References