

**WORKSHOP ON REGULATORY FRAMEWORKS FOR
CORE ECONOMIC SECTORS
NATIONAL TREASURY AND THE OECD
17 and 18 November 2009**



Dr Rod Crompton

My personal views

Nersa regulates

Gas

- Sasol gas
- Spring Lights gas
- iGoli Gas

Electricity

- Eskom
- Munics
- IPPs

Petroleum Pipelines & Storage

- Transnet Pipelines
- BP
- Chevron
- Engen
- Island View Storage
- Petroline
- PetroSA
- Sasol Oil
- Shell
- Total Oil
- Vopack
- Many others

Acts administered

- **National Energy Regulator Act 2004 – wef 1 October 2005**
- **The Gas Act 2001 – wef 1 Nov 2005**
- **Petroleum Pipelines Act 2003 - wef 1 Nov 2005**
- **Electricity Regulation Act 2006 - 1st August 2006**
- **Note: 3 different dispensations**

Electricity

- Generation: State owned utility almost monopoly
- Transmission: State owned monopoly
- Distribution: Constitutional monopoly for munics

- Market entry control is bidding run by DoE (role of regulator?)
- Required regulations awaited

State utility

- Huge asset expansion commenced
- Lack of financing plan
- Governance and corporate governance?
- Even if requested 45% p.a. x 3 yrs tariff increase granted will still be a R30bn funding shortfall.
- Policy vacuum: Energy regulator catapulted into role of policy maker?
- Keep the lights on vrs massive tariff hikes and consequent industrial restructuring
- Lapses in efficiency

- SA natural gas resources not yet found
- Act; Light handed regulation to encourage investment
- Transmission: Private sector monopoly (imported from Mozambique)
- Distribution: Private sector near monopoly
- Only market entry control is licensing (no bidding in Act)

Gas Industry Challenges

- Recent spate of applications for 25 year licences for GTL import terminals & pipeline networks
- Projects insufficiently developed vrs first mover advantage trade off
- Risk of sterilization vrs denting investor enthusiasm

- Pipelines: state monopoly
- Storage: oil majors, few independents
- Market conditions:
 - Pipelines: Short term capacity constraints (Commencement of Act followed by spate of applications – difficult decisions)
 - Storage: Short term capacity constraints (accelerating applications)

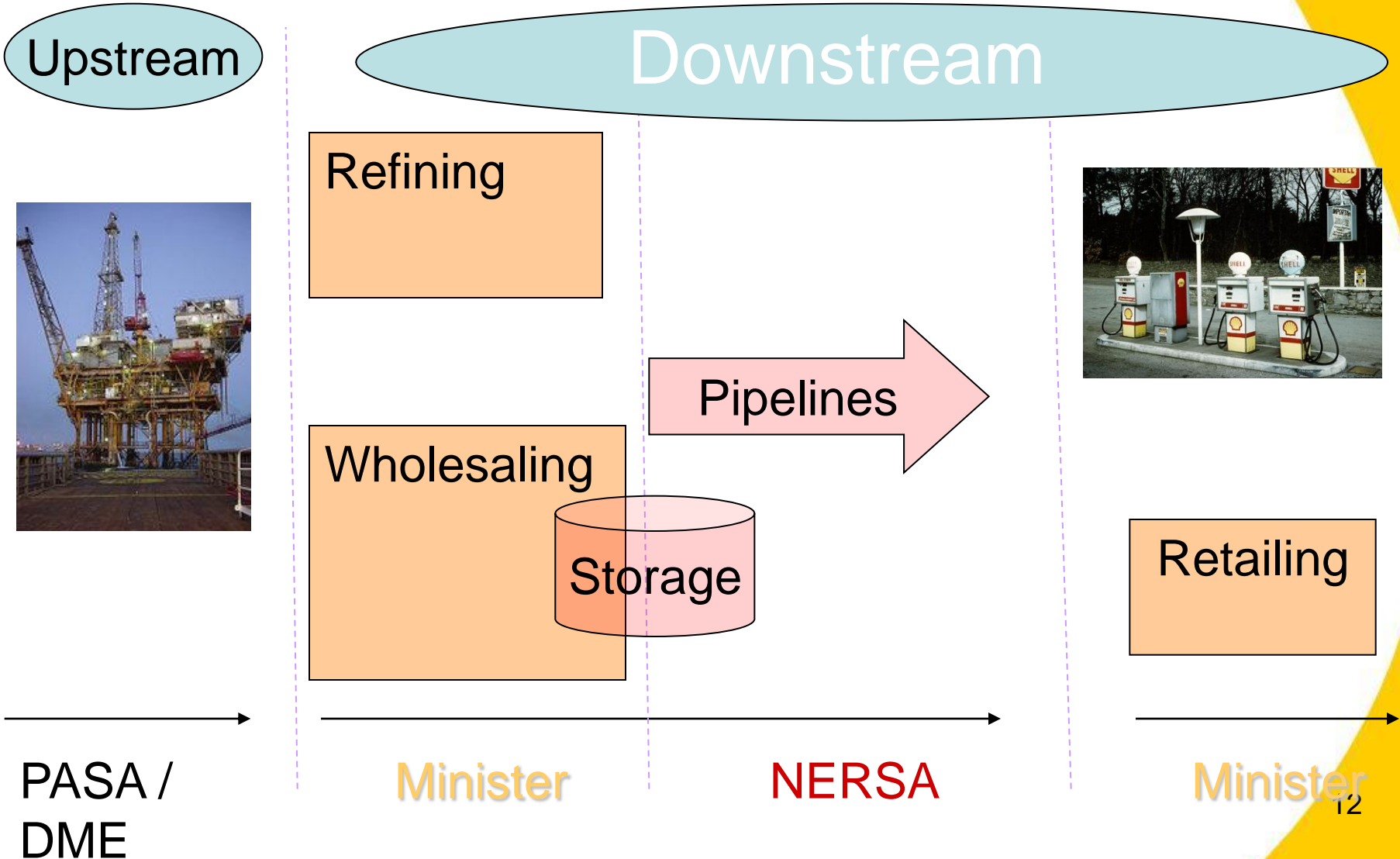
Challenges

- Act wanting to introduce competition without privatisation – almost unique in pipelines
- Pipelines seen as strategic by Government (Energy Master Plan Liquid Fuels)
- Market entry control is licensing (no bidding in Act)
- Once construction licence issued – difficult to deal with run away costs when security of supply threatened
- State utility: Huge asset expansion commenced
- State utility: Lack of financing plan
- Act intended to open up infrastructure: 3rd party access to marine loading & storage difficult

Possible Challenges

- Two other regulators in sector: PASA & Minister of Energy
- Areas of concurrent jurisdiction and mutual impact

WHO REGULATES WHAT?



General issues

1. Acts not always aligned with government policy which changes more quickly
2. Independence: no interference thus far
3. Attempted encroachment on ER authority by Regulations
4. Coordination with other Government bodies: relatively good but more needed. Competition Act threatens petroleum security of supply – exemptions very slow
5. Electricity distribution: subject of Constitutional amendment Bill
6. Institutional design challenges: majority part-time, CEO not appointed by Board
7. Acts lack teeth to act against transgressors

- Transparency: NERSA follows dual formal path: publish and comment and public hearings
- Formal supplemented by informal workshops
- Dominated by resourced interest groups
- Expression of popular opinion limited by geography, resources & technicality
- Confidentiality: public access constrained by Promotion of Access to Information Act¹⁵

THANK YOU

