

## **REGULATORY CHALLENGES IN ACCOMMODATING HYDROFRACTURING IN SA**

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### **ABSTRACT**

In South Africa, both energy and water are scarce resources and this scarcity will be exacerbated by climate change impacts. The country recently emerged from an energy shortage, which saw scheduled, rolling blackouts – dubbed “loadshedding” – which damaged the economy. The already water-poor country is grappling with a persistent drought. It is in the tension between poor access to energy and the scarcity of water that the chapter positions a discussion of energy and technological innovation and ‘disruptive lawmaking’. We do so by considering the introduction of hydraulic fracturing as a means to extract gas.

While hydraulic fracturing has been in use for two decades in other nations, it is a new technology for South Africa. For a “developing” country, South Africa’s energy infrastructure is relatively advanced. Years of sanctions and disinvestment had caused South Africa to become innovative in the creation of energy. The country had seen pioneering processes develop around extracting petroleum from low-grade oil and gas. The Department of Energy has helped to build a renewable solar-voltaic industry in the last decade. Renewed commitment was given in the State of the Nation address of 2017, when the roll-out of phase 4 of the renewable energy policy was endorsed.

Nonetheless, the application of Royal Dutch Shell for exploration rights for shale gas in parts of the Karoo Basin have stimulated discussion of the role that hydraulic fracturing can play in the evolving South African energy policy. The technology and its application remain controversial. The Government has taken a cautious policy and appointed a task team to investigate the options. In this context and in light of drivers for energy innovation such as climate change impacts, the chapter will explore the innovative technological and legal options to determine the future of South African energy policy.