



Independent Power Producer Office

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Centre for Environmental Rights
Second Floor, Springtime Studios
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CAPE TOWN
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**CONFIDENTIAL AND
WITHOUT PREJUDICE**

ATTENTION: **Robyn Hugo**
 rhugo@cer.org.za

Dear Ms Hugo

UPDATE ON THE PREFERRED BIDDERS UNDER THE FIRST BID WINDOW OF THE COAL BASELOAD IPP PROCUREMENT PROGRAMME AND THE PROPOSED KIPOWER COAL-FIRED POWER STATION

1. We refer to your letter dated 15 September 2017 on behalf of your clients, Earthlife Africa Johannesburg (ELA) and groundWork (gW) and thank you for the update and relevant information in relation to the Thabametsi coal-fired power station, the Khanyisa coal-fired power station and the proposed KiPower coal-fired power station.
2. We also refer to our letters dated 2 June 2017 and 27 October 2016 (attached as **Annexure A** and **Annexure B** respectively).



3. We confirm, as previously indicated in our letter dated 2 June 2017, in terms of clause 6.1.6.3 of the RFP¹, the Department will, in considering whether to allow a further extension for Commercial Close and Financial Close to both Preferred Bidders, take into account the applicable Project Development Plans and other relevant factors including the Department's readiness.
4. In light of the Minister of Energy's announcement on 1 September 2017 in which she advised that all future programmes would be put on hold pending inter alia the finalisation of the Integrated Energy Plan and the Integrated Resource Plan for Electricity, it is likely that the Preferred Bidders under the first bid window of the Coal Baseload IPP Procurement Programme ("Coal IPP Programme"), will be afforded extensions in respect of Commercial Close and Financial Close.
5. With reference to your request that the climate change impacts for all proposed coal baseload IPPs be a prerequisite in future bidding rounds under the Coal IPP Programme, we refer you to clause 6 of our previous correspondence dated 2 June 2017 indicating the jurisdiction of the relevant regulatory authority.

Yours sincerely

Karen Breytenbach

Head: IPP Office

Date: 11/10/2017.

¹ Part A – General Requirements Rules



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ATTENTION: **Robyn Hugo**
 rhugo@cer.org.za

Dear Sir/Madam

CENTRE FOR ENVIRONMENTAL RIGHTS' ACTION AGAINST THABAMETSI POWER COMPANY (PTY) LIMITED AND ACWA POWER KHANYISA THERMAL POWER STATION (RF) (PTY) LIMITED AS PREFERRED BIDDERS UNDER THE COAL BASELOAD IPP PROCUREMENT PROGRAMME

1. We refer to your latest letter dated 6 April 2017, the contents of which have been noted.
2. With the finalisation of the court proceedings¹, the Department is now in a position to respond to your letter.
3. Firstly, as correctly cited in your letter, the RFP provides an Anticipated Date for Commercial Close and Financial Close namely, 6 (six) months after announcement of Preferred Bidder. In terms of

¹ Earthlife Africa, Johannesburg v The Minister of Environmental Affairs and Others (Case number 65662/16)



Clause 6.1.6.3 of the RFP², the Department has, having regard to the applicable Project Development Plans and other relevant factors including the Department's readiness, allowed an extension for Commercial Close and Financial Close to both Preferred Bidders until 3 November 2017.

4. Secondly, as you may know, the Bid Responses received by the Department are confidential and in this regard we are unable to provide you with the information you have requested.
5. Aligned with the provisions of the RFP³ and the recommendations by the Department's Transaction Advisors, provisions of the Preferred Bidder Project Development Undertaking for each of the Preferred Bidders stipulate *inter alia* that the Preferred Bidder must have, at Commercial and Financial Close, all applicable permits, licences, approvals and consents including the Environmental Consent in respect of its Project. In the absence of these, the Project will not be able to achieve Commercial Close and Financial Close.
6. Furthermore, we note the outcome of the Thabametsi judgment and your request that the climate change impacts of all proposed coal baseload IPPs must be comprehensively assessed and considered. The Department's requirement, as you are aware, is for the Bidder to have an Environmental Consent. We are confident that the Department of Environmental Affairs, as the relevant regulatory authority, will consider the necessary in awarding the Environmental Consents of these and any other coal baseload project.

Yours faithfully



Karen Breytenbach

Head: IPP Office

Date: 02/06/2017.

² Part A - General Requirements Rules

³ Volume 2, Part 5 Preferred Bidder Documents



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To: **Robyn Hugo**
rhugo@cer.org.za

PER EMAIL

Dear Ms Hugo,

RE: THABAMETSI POWER COMPANY (PTY) LIMITED AS A PREFERRED BIDDER UNDER THE COAL BASELOAD IPP PROCUREMENT PROGRAMME

1. We acknowledge receipt of your letter dated 18 October 2016 and the application launched by your client under case number 65662/16.
2. The Department is currently considering its position and therefore a response to your questions is premature at this stage.

Yours sincerely,



Karén Breytenbach

Head: IPP Office

Date: 27/10/2016.



towards sustainable energy