



# Centre for Environmental Rights

Advancing Environmental Rights in South Africa

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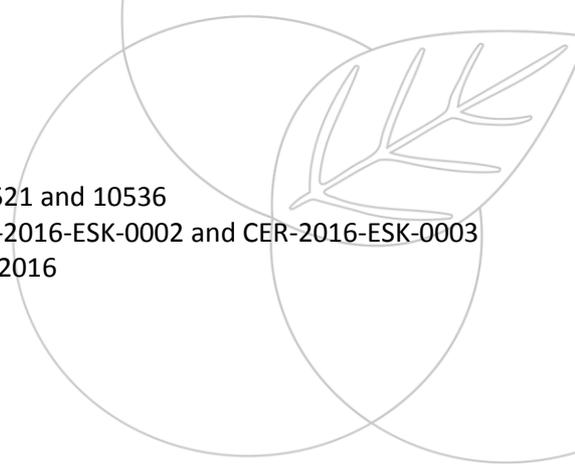
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Your refs: 10521 and 10536  
Our refs: CER-2016-ESK-0002 and CER-2016-ESK-0003  
8 September 2016

**URGENT**

Dear Sirs and Mesdames

**LETTER OF DEMAND – OVERDUE RESPONSES TO OUR REQUESTS FOR ACCESS TO INFORMATION**

1. We address you on behalf of groundWork, Earthlife Africa Johannesburg, the Highveld Environmental Justice Network, and the Vaal Environmental Justice Alliance.
2. As you are aware, the Centre for Environmental Rights (CER) is awaiting decisions in respect of two requests for access to information submitted to Eskom Holdings SOC Limited (Eskom) - on 18 May 2016 and 2 June 2016 respectively - in terms of the Promotion of Access to Information Act 2 of 2000 (PAIA).
3. We have engaged extensively with you on these requests. However, to date, none of the requested records has been made available, or refused. For ease of reference, we have summarised our engagements on each request below. All of the correspondence to which we have referred is available on request.
4. **CER-2016-ESK-0002 (Emission reductions and decommissioning)**
  - 4.1. While this request was submitted on 18 May 2016, the information was previously requested by the CER by way of a letter dated 25 April 2016. The CER was only informed on 12 May 2016 that it would be necessary to request this information by way of a PAIA request as “a matter of formality”. On the same date, the CER asked that Eskom calculate the 30 days for responding to the request from 25 April 2016, or at least process the request more speedily than within 30 days from the date of the PAIA request. Eskom responded that they would start working on the reply “straight away”.
  - 4.2. We sent a number of reminders following the submission of our request. On 15 June 2016, we received a notification of extension informing us that the statutory period of 30 days for a response had been extended, under section 26 of PAIA, by a further 30 days. The new deadline for a decision accordingly became 18 July 2016.
  - 4.3. On 27 June 2016, we were asked to clarify certain aspects of our request, which we promptly did. On 20 July 2016, we were informed that a decision could not be provided on time. We were informed that a decision would be provided “as soon as possible”. On 22 July 2016, in a telephone conversation between our Ms Christine Reddell and Eskom’s Mr Bryan McCourt, we were informed that the delay was occasioned by the fact that the information needed to be sourced from various facilities and verified before the information could be provided. We were informed that we could expect a decision by mid-August 2016.
  - 4.4. After having followed up again, we were informed on 16 August 2016 that Eskom was awaiting “authorised signature” and that we would receive a response soon. On 22 August 2016, we were informed that the request is still being worked on, and that it would not be possible for Eskom to provide a commitment in terms of when a response could be expected.

5. **CER-2016-ESK-0003 (Annual Emission Reports)**

- 5.1. This request was submitted on 2 June 2016.
- 5.2. On 29 June 2016, we received a notification of extension informing us that the statutory period of 30 days for a response had been extended, under section 26 of PAIA, by a further 30 days. The new deadline for a decision accordingly became 1 August 2016.
- 5.3. On 22 July 2016, our Ms Reddell, in a telephone conversation with Eskom's Mr McCourt, was informed that this request was "less complicated" than the request relating to emission reductions and decommissioning (addressed above) and that Mr McCourt hoped to be in a position to provide the information soon.
- 5.4. After having followed up again, we were informed on 1 August 2016 that the response had been prepared but was not finalised. On 22 August 2016, we were informed that Eskom is still working on this request and is unable to give us a commitment in terms of when a response can be given.
6. It is clear from the above that the CER, in respect of both requests, has been led to believe that decisions will be imminently supplied. However, despite these assurances, the latest communication from Eskom on both requests is that no commitment can be made in terms of when responses can be provided. At the same time, Eskom has also not refused to provide the requested records.
7. We remind you that the timeframes for decision-making on access to information requests are prescribed by statute, and that Eskom is under a legal obligation to respond.
8. Our clients have become increasingly impatient and have instructed us to advance these matters. Unless we receive decisions in respect of both of these requests by 22 September 2016, our clients will have no option but to consider taking such legal steps as they may be advised.

Yours faithfully

**CENTRE FOR ENVIRONMENTAL RIGHTS**

per: 

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