



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

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Your ref: NERSA 658-1912
Our ref: CER12.4 & 54.3 NL/RH/MMK
4 April 2018

Dear Sirs

OBJECTIONS TO GENERATION LICENCE APPLICATIONS FOR THABAMETSI AND KHANYISA IPP COAL-FIRED POWER STATIONS

- 1 We refer to the public hearing in relation to the above licence applications that took place at your offices on 27 March 2018, with Mr Muzi Mkhize of the Energy Regulator of South Africa (NERSA) presiding over the hearing.
- 2 We and our clients, Earthlife Africa and groundWork, thank you for hosting the hearings and for the opportunity to present our objections.
- 3 We confirm that, on 26 March 2018, we submitted supplementary written objections in respect of both applications – hard copies of these were delivered at your offices on 27 March 2018. We trust that these written

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submissions, as well as the oral representations made on 27 March 2018 will be fully considered by NERSA before making a decision in relation to the licence applications.

- 4 In our oral presentations and in the written submissions, our clients indicated that NERSA is obliged to hold hearings in the affected areas where the power stations would be located. During the hearing, Mr Mkhize, advised that this concern was noted. We understand that, in relation to the licence applications for the renewable independent power producers, hearings were held in – or close to - the affected areas where the projects would be developed. Moreover, this is provided for in rule 4(2)(a) of the NERSA Rules for Public Hearings.¹
- 5 We were also concerned to note that only one NERSA member – Mr Mkhize - presided over the hearing.
- 6 In light of the above, kindly advise on the following:
 - 6.1 Will NERSA be making the necessary arrangements to host public hearings in relation to these applications in the affected areas where the power stations would be based, namely Lephalale for Thabametsi and eMalahleni for Khanyisa?
 - 6.2 Were any other NERSA members (other than Mr Mkhize) present at the hearing on 27 March? If so, kindly provide the names of the members who attended the hearing. Who were the committee members appointed to conduct the hearing (please provide their names and positions and NERSA) and who was appointed as chairperson of that committee, in accordance with the NERSA Rules for Public Hearings?
 - 6.3 Were the hearing proceedings transcribed and/or recorded, as required by rule 16 of the NERSA Rules for Public Hearings, and will other NERSA members have access to and be required to consider these recordings? We also request that you provide us with access to the recording and/or transcription of the hearing.
 - 6.4 What processes and next steps will now be followed by NERSA in relation to the licence applications?
- 7 We look forward to your response to our queries.
- 8 Kindly keep us updated.

Yours faithfully

CENTRE FOR ENVIRONMENTAL RIGHTS

per: 

¹ Rule 4(1) states “if in the opinion of the committee appointed to conduct a public hearing the proposed administrative action that may be made by the Energy Regulator may materially and adversely affect the rights of members of a specific community consisting of a significant proportion of people who cannot read or write or who otherwise need special assistance - (a) a notice must be publicised in the area of that community in a manner that will bring the proposed action to the attention of the community at large; and; (b) the Energy Regulator must take special steps to solicit the views of members of that community.” According to rule 4(2) “the special steps contemplated in sub-paragraph (1)(b) may include – (a) holding a hearing at a location in the area concerned...”

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