



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

Chris Forlee

Chief Executive Officer

National Energy Regulator SA

By email: Christopher.Forlee@nersa.org.za
info@nersa.org.za

Copied to:

Mr Thabane Zulu

Director General

Department of Mineral Resources and Energy

By email: Thembeke.zuma@energy.gov.za

Mr Jacob Mbele

Deputy Director General

Department of Mineral Resources and Energy

By email: jacob.mbele@energy.gov.za

Tshepo Madingoane

Energy Planning

Department of Mineral Resources and Energy

By email: Tshepo.Madingoane@energy.gov.za
IRP.queries@energy.gov.za

The Honourable Minister Gwede Mantashe

Minister of Mineral Resources and Energy

By email: Mandisi.Mavata@dmr.gov.za
info@energy.gov.za

Our ref: CER34.25/RH/NL

5 November 2019

URGENT

Dear Sir

REQUEST FOR WRITTEN REASONS: INTEGRATED RESOURCE PLAN FOR ELECTRICITY, 2019

1. We address you on behalf of our clients, groundWork¹ and Earthlife Africa NPC.² We refer to the updated Integrated Resource Plan for Electricity (IRP) published on 18 October 2019.³
2. We refer further to our letter of 19 November 2018 to the National Energy Regulator of South Africa (NERSA),⁴ a copy of which is attached to this letter. We did not receive a response to the 19 November 2018 letter. Nor have we received any indication from NERSA, or the Department of Mineral Resources and Energy ("the Department"), that adequate (or any) public participation has been conducted by NERSA in relation to the IRP.
3. We write to request reasons for the NERSA's decision to concur in the promulgation of the updated IRP of 18 October 2019.

¹ groundWork is a non-profit environmental justice campaigning organisation working primarily in South Africa, in the areas of Climate & Energy Justice, Coal, Environmental Health, Global Green and Healthy Hospitals, and Waste. See more information at: www.groundwork.org.za.

² Earthlife Africa is a non-profit organisation, founded in Johannesburg, South Africa, in 1988, that seeks a better life for all people without exploiting other people or degrading their environment. See more information at: <http://earthlife.org.za/>.

³ Available at https://cer.org.za/wp-content/uploads/2019/10/IRP-2019_corrected-as-gazetted.pdf.

⁴ Available at https://cer.org.za/wp-content/uploads/2018/11/CER-letter-to-NERSA_19-Nov-2018.docx.pdf.

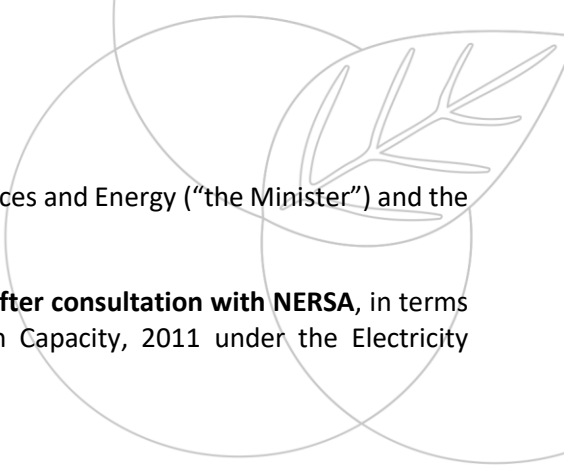
Cape Town: 2nd Floor, Springtime Studios, 1 Scott Road, Observatory, 7925, South Africa

Johannesburg: First Floor, DJ du Plessis Building, West Campus, University of the Witwatersrand, Braamfontein, 2001, South Africa

Tel 021 447 1647 (Cape Town) | Tel 010 442 6830 (Johannesburg)

Fax 086 730 9098

www.cer.org.za

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4. We have also sent a request for reasons to the Minister of Mineral Resources and Energy (“the Minister”) and the Department, in which you have been copied.
 5. The Minister’s decision to promulgate the IRP was required to be taken **after consultation with NERSA**, in terms of regulation 4(1)(a) of the Electricity Regulations on New Generation Capacity, 2011 under the Electricity Regulation Act, 2006 (ERA).
 6. We hereby request written reasons for:
 - 6.1. NERSA’s decision, in consultation with the Minister, to approve the IRP;
 - 6.2. NERSA’s decision to approve the provision for 1 500 MW of new coal capacity in the IRP; and
 - 6.3. NERSA’s decision to forego a consultation process prior to making its decision to concur in the approval of the IRP.
 7. The request for reasons is made in terms of section 5(1) of the Promotion of Administrative Justice Act, 3 of 2000 (PAJA). We emphasise that even if PAJA were for some reason inapplicable, our clients remain entitled to the reasons in terms of the principle of legality, see for example: *Judicial Service Commission and Another v Cape Bar Council and Another* 2013 (1) SA 170 (SCA) at paras 43-45.
 8. Given the public importance of the IRP for South Africa’s energy future, and for the protection of constitutional rights, we request that such reasons be provided as soon as possible, and by no later than **5 December 2019**.
 9. We await your response by **5 December 2019**.
 10. Our clients’ rights are fully reserved.

Yours faithfully

CENTRE FOR ENVIRONMENTAL RIGHTS

per: 

Nicole Loser
Attorney

Direct email: nloser@cer.org.za