



Centre for Environmental Rights

Advancing Environmental Rights in South Africa

Annexure 2

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4 April 2023

URGENT

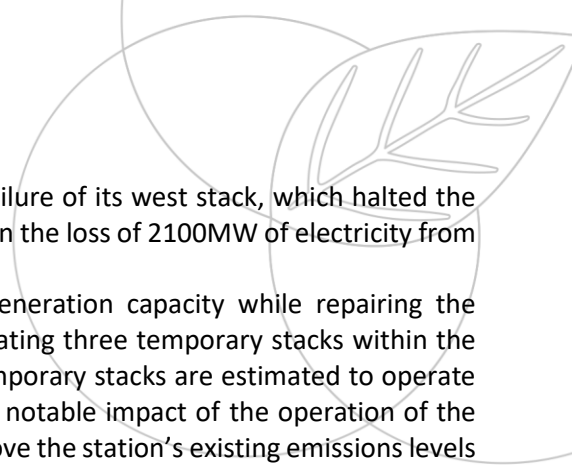
Dear Sir

NOTIFICATION REGARDING ENVIRONMENTAL EXEMPTION FOR THE CONSTRUCTION OF TEMPORARY STACKS AT KUSILE POWER STATION: REQUEST FOR RELEVANT DOCUMENTS

1. We address you on behalf of the Life After Coal Campaign (LAC), which is a joint campaign by the Centre for Environmental Rights (CER), groundWork (gW), and Earthlife Africa Johannesburg (ELA) that aims to discourage the development of new coal-fired power stations and mines; reduce emissions from existing coal infrastructure and encourage a coal phase-out; and enable a just transition to sustainable energy systems for the people.
2. CER, gW, ELA are registered interested and affected parties (I&APs) in relation to all Eskom's applications for suspension of compliance with, postponement of compliance with, and/or alternative limits in the Minimum Emission Standards (MES) issued under the National Environmental Management: Air Quality Act, 2004 (AQA). In addition, the CER is a registered I&AP in Eskom's intended application for a once-off postponement with the new plant minimum emission standards in terms of paragraph 11A of the List of Activities and accompanying Minimum Emission Standards (MES).¹
3. We refer to the notice received on 22 March 2023, stating, and alleging the following, *inter alia*:

¹ List of Activities which result in Atmospheric Emissions which have or may have a Significant Detrimental Effect on the Environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage, Government Notice 893 (Government Gazette 37054) of 22 November 2013, as amended ("List of Activities") under the National Environmental Management: Air Quality Act, 2004 (AQA) (with accompanying Minimum Emission Standards (MES)).

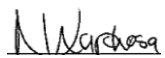
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- 3.1. On 23 October 2022, Kusile Power Station (Kusile) experienced a failure of its west stack, which halted the operation of three of its generating units. This incident has resulted in the loss of 2100MW of electricity from the national grid, intensifying load-shedding.
 - 3.2. Eskom has identified a temporary solution to restore the lost generation capacity while repairing the damaged stack. The temporary solution involves building and operating three temporary stacks within the station while repairs to the damaged stack are undertaken. The temporary stacks are estimated to operate for 13 months, from November 2023 to December 2024. The most notable impact of the operation of the temporary stacks will be an increase in sulphur dioxide emissions above the station's existing emissions levels while the temporary stacks operate.
 - 3.3. Eskom was granted exemption from the application of paragraphs 12(a) (air pollution impact assessment requirement) and 12(c) (required public participation in terms of the environmental impact assessment regulations) of the List of Activities with the accompanying MES with regards to Eskom's intended applications for a once-off postponement with the new plant minimum emission standards in terms of paragraph 11A of the List of Activities.
 - 3.4. A combined public participation process regarding these applications will be undertaken on an urgent basis and reduced to a minimum of 14 days. Comments on the application must be submitted on 14 April 2023
4. We wish to place on record, our concern about the venues for the public participation meetings. We are concerned that this venue may not be conducive to encourage meaningful engagement with communities and civil society. We are also aware that public transport, and the costs thereof, may be an issue for many affected community members.
 5. We intend to fully participate in the public participation process and raise our concerns regarding this application. However, in order to contribute fully to this process, we require certain crucial information to understand the reasoning behind these decisions. Therefore, we request the following information:
 - 5.1. A copy of any health impact assessment conducted by Eskom to estimate the impacts of such unabated SO₂ emissions on the people living in the airshed of the power station.
 - 5.2. A copy of any cost-benefit analysis conducted by Eskom to determine the feasibility of the proposed bypass stacks. Alternatively, any information relating to this aspect including information relating to all costing
 - 5.3. A copy of any modelling done by Eskom comparing pollutant emissions exceedances before and after the construction of the proposed FGD bypass stacks.
 - 5.4. Any information or reports indicating the alleged improvement of load shedding through the construction of the proposed FGD bypass stacks.
 - 5.5. Details of all measures taken by Eskom to ensure that communities and individuals that are located in close proximity to Kusile are informed of the intended measures, the impacts, as well as about the public participation meetings, and any measures taken to ensure that such communities and individuals are enabled to attend and participate.
 - 5.6. Further details on the mitigation measures proposed by Eskom, including the health screenings and an assessment of the effectiveness of referrals to the public health system.
 - 5.7. Any other pertinent information that informed the decision to construct the proposed bypass stacks.
 6. We reserve the right to take appropriate legal action upon consideration of advice and information received.
 7. We look forward to your response, which we hope to receive by no later than **Thursday, 6 April 2023**.

Yours faithfully

CENTRE FOR ENVIRONMENTAL RIGHTS

per:



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Attorney

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