

Your ref: The Minister of Electricity and Energy/IRP
Our ref: AP/IRP

Dr. Kgosientsho David Ramokgopa
Minister of Electricity and Energy
Private Bag X96
Pretoria
0001

“URGENT”

By Email c/o: Tumi.Mthimunye@dmre.gov.za
Tsakane.Khambane@dmre.gov.za
Subesh.Pillay@dmre.gov.za
Subesh@presidency.gov.za
thabang.audat@dmre.gov.za
thilivhali.mulangaphuma@dmre.gov.za
gift.nhlapo@dmre.gov.za
donald.ndobe@dmre.gov.za

19 June 2025

Dear Honourable Minister Ramokgopa

Re: Integrated Resource Plan for Electricity (‘IRP’) – Request for reasonable opportunity to comment on revised draft IRP prior to submission to Cabinet for approval

We write to you on behalf of the following parties:

- The Life After Coal Campaign, a joint environmental justice campaign by Earthlife Africa, groundWork, and the Centre for Environmental Rights;
- The Green Connection, a registered non-governmental organisation focussing (among other things) on environmental justice and a just energy transition within the context of the global Climate Crisis; and
- The Southern African Faith Communities Environment Institute (SAFCEI), a registered non-profit organisation established by multi-faith environmental and social justice advocates to (among other things) confront environmental and socio-economic injustices, and to support and encourage faith leaders and their communities in Southern Africa to take action on eco-justice, sustainable living and climate change issues.

The parties are deeply concerned over the public consultation process undertaken in respect of the current Integrated Resource Plan for Electricity ('IRP') update process, and in particular are concerned that they (and the public in general) have not been afforded a reasonable opportunity to consider and make representations on the latest iteration of the draft IRP.

Draft IRP2023

As the Minister will be aware, on 4 January 2024 a draft IRP2023 was published in the *Gazette*¹ inviting public comment. The draft IRP2023 included (among other things) analysis and results of modelling testing five 'scenarios' for the period 2023 to 2030 (Horizon 1), and presented an 'emerging plan' (showing new electricity generation capacity required for this period) and proposed interventions. It also included analysis and results of modelling in respect of five energy mix 'pathways' for the period 2031 to 2050 (Horizon 2). More detailed information on 'capacity extension plans' was set out in Annexure C (including tables presenting the amount of new electricity generation capacity for various sources / technologies, compared against a Reference Case). Additional information made available during this period included (among others) an EPRI report on supply-side costs and performance data, together with an Excel spreadsheet that included cost assumptions for various technologies (sourced from the EPRI report, Lazard and the DMRE – the latter in respect of nuclear cost assumptions).

A virtual public workshop on the draft IRP2023 was conducted on 18 January 2024, while the deadline for the submission of comments was extended to 23 March 2024.

The parties participated in this process, including bilateral engagements in some instances.

The parties also submitted substantive legal and technical comments on the draft IRP2023. These comments collectively addressed a wide range of issues. Among other things, it was asserted that the plan was not fit-for-purpose as an electricity resource plan, and did not align with the Just Transition. Additionally, it was asserted that the plan failed to meet the fundamental needs of ensuring a reliable electricity delivery system at least cost and in accordance with the Constitution of the Republic of South Africa ('the Constitution') and the Bill of Rights. It was contended that the draft IRP2023 would be vulnerable to challenges based on failure to meet the necessary standards of legality. It was further contended that, by failing to lay out, motivate and adopt a clear least-cost pathway, and by not accounting for the costs of externalities (and thereby overlooking the hidden costs in a fossil fuel heavy generation mix), the draft IRP 2023 would exacerbate energy poverty. It was pointed out that expensive electricity hampers development, and impacts historically disadvantaged and vulnerable people the most.²

¹ GN4238 of 4 January 2024

² Among other things, these comments also collectively highlighted:

- fundamental flaws in the draft IRP2023's ability to ensure cost-effective electricity supply, energy security, and uphold South Africa's Constitutional Right to a live in a healthy environment

Stakeholder Feedback and Engagements

On 22 November 2024, the Ministry published a Public Notice of targeted stakeholder engagement sessions to present the outcome of a review of the draft IRP2023, based on comments received. These sessions included a ‘Stakeholder Feedback and Engagement’ (in person and virtual) on 26 November 2024 (Session 1), and ‘Targeted Stakeholder Engagements’ (virtual) on 27 and 28 November 2024 (Sessions 2 and 3 respectively).

These engagements included two power point presentations:

- A ‘Public Consultation Feedback’ presentation that provided an overview of the public consultation process, as well as emerging themes from the comments received. The presentation concluded that the Department and IRP Working Committee had to try and balance often differing perspectives, and that the presentation that followed would ‘dwell on’ how the comments received were incorporated into the modelling work; and
- A ‘Draft Integrated Resources Plan – Stakeholder Workshops’ presentation that included slides dealing briefly with several topics, ranging from the IRP’s objectives, technical team composition, IRP planning methodology and assumptions (including a demand forecast, total committed capacity by 2030 and new technology costs, among others). This was followed by slides dealing with five ‘scenarios studied’. These included a revised reference case build plan, a reference case with ‘gas at risk’, and three revised alternative scenario build plans (each of which contained a different mix of new electricity generation capacity options). Total system build capacity for these scenarios was presented, as well as total system costs, while a summary of the scenario analysis was presented in a final slide.

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- that the plan supported substantial fossil fuel-based generation (including gas-to-power), which was likely to exacerbate energy poverty, and risked public investment in infrastructure that could in the future become stranded assets.
 - the risks associated with extraction of gas (offshore and onshore) were also highlighted, including risks to the oceans, air, human health and biodiversity, while also risking the livelihoods of small scale fishers and fishing-dependent communities.
 - that the plan supported expensive and economically risky technologies (such as extensive gas-to-power and nuclear) that was not needed.
 - that delayed decommissioning of the unreliable existing coal fleet would perpetuate the costly and dangerous health crisis caused by deadly air pollution from coal fired power, while failing to account openly for the costs of these related impacts, pointing out that 32 000 South Africans could die if the country does not transition to a more sustainable pathway.
 - that the draft IRP2023 lacked sound climate change commitment, with concerns raised about its impact on greenhouse gas emissions notwithstanding climate science findings underscoring the disproportionate impacts of climate change on vulnerable groups such as women and children.
 - shortcomings in the public participation process, including short commenting periods, limited provision of underlying information, and few explanations or available calculations justifying the draft IRP2023’s preferred new generation capacity mix choices; and
 - the absence of an Integrated Energy Plan to guide new electricity infrastructure.

Meaningful public participation in these stakeholder engagements was undermined by the unreasonably short notice given (4 days between the public notice and the first engagement session), and by the sharing of content on the day of the engagement. Concerns previously raised relating to flawed scenarios did not appear to have been addressed, while the modelling had changed from single-node to multi-node modelling. Signally, the presentations did not indicate a proposed new generation capacity plan for the period 2030-2050, and the revised draft IRP document was not (and has not yet been) made available to the public. Attempts to arrange further bilateral engagements with the 'IRP team' and secure access to the revised IRP document have to date been unsuccessful.

Draft IRP2024

Recently, the parties were alarmed by media reports indicating that the Minister has 'reaffirmed' that the National Economic and Labour Council (NEDLAC) deliberations on the latest update to the IRP will be the 'last step' before Cabinet approval of the IRP.³

This latest update has not been made available to the public for comment. However, a document titled 'Integrated Resources Plan – December 2024' ('draft IRP2024') has 'leaked' into the public arena from the NEDLAC process.

Significantly, this draft IRP2024 differs materially from the draft IRP2023 published for public comment. For example, the draft IRP2024 includes for the first time a 'Proposed Balanced Plan'⁴ indicating proposed new electricity generation capacity allocations for various energy sources/technologies for the period 2024 to 2050. This includes the allocation of 18,250MW of gas-to-power and 5200MW of nuclear electricity generation capacity (notwithstanding that the 'Nuclear Case' scenario indicates that beyond 2030 '*no generic additional gas technologies are made available in the optimization model due to their costs range on the screening curves*').⁵ This risks locking South Africa into electricity generation that may in the future become stranded assets, without the benefit of an Integrated Energy Plan ('IEP') to guide energy infrastructure investments and which takes into account the sustainability of energy provision, affordability and cost-effectiveness.⁶

It is respectfully submitted that the failure to afford the parties (and the public) a reasonable opportunity to consider and meaningfully comment on the draft IRP2024 (or

³ <https://www.engineeringnews.co.za/article/ramokgopa-reaffirms-nedlac-deliberations-on-irp-to-be-last-step-before-cabinet-approval-2025-05-14>

⁴ Draft IRP2024, Table 1, p30.

⁵ Draft IRP2024, p24.

⁶ National Energy Act, 2008, sections 6(2) and s6(6). While s6 was brought into operation with effect from 1 April 2024, the IEP is still in the process of being developed, and based on available information is only 'expected to be concluded by September 2024' (per Ministry Electricity and Energy, 6 March 2025, Memorandum from the Parliamentary Office, National Assembly 532 – Written response to parliamentary question to Minister of Electricity and Energy).

any subsequent amendment thereto), the new modelling conducted and the ‘Proposed Balanced Plan’ makes a mockery of the public consultation process.

Importance of the IRP

The IRP is intended to serve as an ‘*indicative, forward-looking plan for electricity generation, which reflects national policy on electricity planning, which plan specifies the types of energy sources and technologies from which electricity may be generated and indicates the amount of electricity that is to be generated from each of such sources or technologies*’.⁷

The draft IRP2024 indicates that the main purpose of the IRP is to ensure security of electricity supply in South Africa by balancing supply with demand, while considering the environment and total cost of supply,⁸ and that it serves as a policy instrument for South Africa for achieving this purpose while also fostering a more sustainable and resilient energy future.⁹ The draft IRP2024 also indicates that the IRP is a key policy and measure for meeting sectoral greenhouse gas emission targets (SETs) for the electricity sector in terms of the Climate Change Act,¹⁰ with the IRP informing these targets.¹¹

In terms of section 34(1) of the Electricity Regulation Act, 2008 (as amended) (‘ERA’),¹² the Minister is empowered to make determinations that new new electricity generation capacity is needed (and the energy sources / technology from which such electricity is to be generated, and how much) and regarding the conducting of the procurement process for the acquisition of the electricity so produced.¹³ When making such determinations,

⁷ ERA (as amended), s1.

⁸ Draft IRP2024, p4.

⁹ Draft IRP2024, p9.

¹⁰ Act 22 of 2024.

¹¹ Draft IRP2024, p12.

¹² Section 2 of the ERA (as amended) indicates that the objects of the Act are to:

- achieve the efficient, effective, sustainable and orderly development and operation of electricity supply infrastructure in the Republic of South Africa;
- ensure that the interests and needs of present and future electricity customers and end users are safeguarded and met (having regard to the governance, efficiency, effectiveness and long-term sustainability of the electricity supply industry within the broader context of economic energy regulation in the Republic);
- facilitate investment in the electricity supply industry;
- facilitate universal access to electricity;
- promote the use of diverse energy sources and energy efficiency;
- promote competitiveness and customer and end user choice; and
- facilitate a fair balance between the interests of customers and end users, licensees, investors in the electricity supply industry and the public.

¹³ Section 34(1) of the ERA (as amended) empowers the Minister to make determinations that additional electricity or new generation capacity is needed to ensure the optimal supply of electricity, and to make determinations that new electricity transmission infrastructure is needed to also ensure the optimal supply of electricity. Section 34(2) provides that such determinations must include provisions dealing with the extent of new generation capacity required to be established (or electricity required to be produced), the types of energy sources or technologies from which the electricity may be generated (and how much from each source or technology), whether the generator/s shall be organs of state or independent power producers, whether the electricity produced must be purchased by (and sold to) a

the Minister is required to have regard to the content of the IRP,¹⁴ and may deviate from the IRP only in an emergency or if it is necessary to do so in the national interest.¹⁵ Determinations made by Minister may also establish energy infrastructure projects, including gas infrastructure.¹⁶

Thus once the IRP is approved by Cabinet, the electricity mix policy choices made therein shape South Africa's electricity generation system for decades to come.

Following almost two decades of load-shedding and staggering increases in Eskom's electricity tariff (280% since 2017),¹⁷ and having regard to South Africa's response to the Climate Crisis,¹⁸ it is of utmost importance that South Africa makes wise electricity generation capacity and infrastructure choices that are capable of achieving a least cost power system and which uphold (and do not infringe upon or limit) the Constitutional Rights of current and future generations. These choices have significant implications for current and future generations of electricity users (who will ultimately bear the cost of these choices), as well as for the environmental (and other) rights of current and future generations.

Principle of Legality (procedural rationality)

While the 2011 Electricity Regulations on New Generation Capacity¹⁹ provide that the IRP shall be developed by the Minister, the development of the IRP fails within the ambit of the Executive's power to develop and implement national policy.²⁰

In accordance with the principle of legality (which flows from section 1(c) of the Constitution and the Rule of Law), all exercises of public power, including executive action, are subject to the Constitution and review by our Courts. All exercises of public power must be rational, including the procedure leading to the decision.

The importance of public consultation in the development and implementation of policy is supported by the Constitution, which provides that public administration must be governed by democratic values and principles enshrined in the Constitution, including

person designated in the determination as the buyer of the electricity, and where applicable the conducting of the procurement process for the acquisition of the electricity so produced etc.

¹⁴ ERA (as amended), s34(6)(a).

¹⁵ ERA (as amended), section 34(6)(b). Prior to deviating from the IRP, the Minister is required to publish a notice in the *Gazette* inviting the public to comment on the proposed deviation (s34(7)), unless it is reasonable and justifiable in the circumstances to not do so (s34(8)).

¹⁶ ERA (as amended), s34(12).

¹⁷ Steyn, Grové - IRP 2025: Reflections on Process and Outcomes (7 May 2025), accessible online at: <https://www.ee.co.za/wp-content/uploads/Presentation-Grove-Steyn-1.pdf>

¹⁸ The Climate Change Act recognises that that implementing an effective climate response is a national sustainable development priority, that the response needs to go beyond traditional sectoral approaches to governance, and requires organs of state exercising powers affected by climate change to review, coordinate and harmonise their policies and laws to take into consideration the risks of climate change impacts.

¹⁹ GN399 of 4 May 2011 (as amended), regulation 3.

²⁰ SA Constitution, s82(5)(b).

that ‘Peoples’ needs must be responded to, and the public must be encouraged to participate in policy-making’.²¹

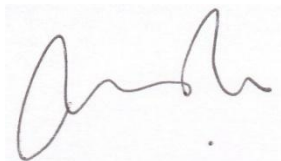
It is submitted that, for the reasons outlined in the letter, the public consultation process for the revision of the IRP does not meet the requirement of procedural rationality, and any decision to approve the draft IRP2024 (or any amendment thereto) would be vulnerable to challenge under the principle of legality

Request for reasonable opportunity to comment on revised draft IRP

In the premises, the parties respectfully request that the draft IRP2024 be made public, and that they (and the public) be afforded a reasonable opportunity to consider and provide comment on the draft IRP 2024 (and any revision thereto) and any supporting information, prior to Cabinet making its approval decision.

We look forward to receiving your urgent response to the parties’ request.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Adrian Pole', written over a horizontal line.

Adrian Leonard Pole

²¹ SA Constitution, s195(1)(e). The principles also include (among other things) accountability, and the fostering of transparency by providing the public with timely, accessible and accurate information.