



**To: The Honourable Minister
Department of Mineral & Petroleum Resources**

Trevenna Campus,
Building 2C,
C/o Meintjes & Francis Baard Street, PRETORIA

Att: Email: kholofelo.mocumie@dmre.gov.za

And To:

**Saandhri Naidoo
Director: Legal Services**

Department of Mineral Resources and Energy
Trevenna Campus, Building 2B
Cnr. Francis Baard and Meintjies Street, Sunnyside
Private Bag X96, Pretoria, 0001

Cell: 0844777433 or 0713859886

Email : saandhri.naidoo@dmre.gov.za

16th December 2024

**RE: APPEAL AGAINST DECISION OF THE NATIONAL NUCLEAR REGULATOR TO
AUTHORISE THE LONG TERM OPERATION OF UNIT 1 OF THE KOEBERG NUCLEAR
POWER STATION**

Dear Honourable Minister,

Thank you for sending us Eskom's response to SAFCEI's appeal in the above matter, and for affording us an opportunity to respond thereto. However, the time period given for such response is unreasonably short, and is unacceptable. SAFCEI will be deprived of a reasonable opportunity to respond to the Eskom submissions if this period is not significantly extended.

Firstly, it is not clear whether the 21-day period indicated includes weekends and public holidays. Even if it excludes these days, the period is too short for the public - including SAFCEI - to respond, given the highly technical nature of the subject of the appeal. The situation is exacerbated by the fact that the period falls in the "festive" season. This seriously impacts on the availability of resources, both legal and technical, for SAFCEI that are required in order to meaningfully respond. There is also insufficient time to present these responses to board members and constituents of SAFCEI for them to consider and mandate the SAFCEI response. In general people are on holiday and not available to respond to highly technical documents within such a constrained time period.

The South African constitution and our administrative law recognize the right to procedurally fair administrative action. Having granted SAFCEI and others the right to respond to Eskom's submissions this right must include a reasonable opportunity to make representations before administrative action is taken, as envisaged in section 3(2)(b)(ii) of the Promotion of Administrative Justice Act (Act 3 of 2000). A reasonable opportunity

to make representations would entail an opportunity to participate meaningfully in the appeal process not merely participate, as has also been recognized by our law.¹ The unreasonably short time period over the festive season afforded for responding to Eskom's responses public is not a reasonable opportunity to make representations and to participate meaningfully in the appeal process given what is stated above. If the period is not extended the result will be procedurally unfair administrative action by the decision maker which we reserve the right to challenge in the appropriate forum.

It is noted that Eskom's reply to our appeal states that it was "Saved: 2024/12/04" which indicates that this document came into being just less than three months after we lodged our appeal on 12th September 2024. Given the complexity of the issues raised, SAFCEI and the public should be afforded an equal amount of time to respond to the Eskom responses i.e. at least 2.5 months.

Kindly advise of your decision to extend the comment period as soon as possible

Yours faithfully



Per: F de Gasparis
SAFCEI

¹ Hoexter (2nd edition, 2013), *Administrative Law in South Africa*, at p83.