

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case No: **23339/22**

In the matter between:

THE GREEN CONNECTION NPC
(Registration number: 2021/773490/08)

Applicant

and

**NATIONAL ENERGY REGULATOR OF
SOUTH AFRICA**

First Respondent

**MINISTER OF MINERAL RESOURCES AND
ENERGY**

Second Respondent

**KARPOWERSHIP SA SALDANHA BAY
(RF) PROPRIETARY LIMITED**
(Registration number: 2020/754347/07)

Third Respondent

**KARPOWERSHIP SA COEGA
(RF) PROPRIETARY LIMITED**
(Registration number: 2020/754336/07)

Fourth Respondent

**KARPOWERSHIP SA RICHARDS BAY
(RF) PROPRIETARY LIMITED**
(Registration number: 2020/754352/07)

Fifth Respondent

ESKOM HOLDINGS SOC LTD
(Registration number: 2002/015527/30)

Sixth Respondent

NOTICE OF MOTION

TAKE NOTICE THAT the abovenamed Applicant intend to make application for orders in the following terms:

1. Declaring the following decisions of the First Respondent, taken on 21 September 2021 (with reasons being furnished on 29 October 2021) to be unlawful ("**the Decisions**"):
 - 1.1. to approve that Third Respondent be granted an electricity generation licence to operate a generation facility at the Port of Saldanha Bay;
 - 1.2. to approve the charge rates used by Third Respondent to calculate the tariffs to be charged in the Power Purchase Agreement between Third Respondent and Sixth respondent;
 - 1.3. to approve that Fourth Respondent be granted an electricity generation licence to operate a generation facility at at the Port of Ngqura;
 - 1.4. to approve the charge rates used by Fourth Respondent to calculate the tariffs to be charged in the Power Purchase Agreement between Fourth Respondent and Sixth respondent;
 - 1.5. to approve that Fifth Respondent be granted an electricity generation licence to operate a generation facility at the Port of Richards Bay;

- 1.6. to approve the charge rates used by Fifth Respondent to calculate the tariffs to be charged in the Power Purchase Agreement between Fifth Respondent and Sixth respondent;
2. Reviewing and setting aside the Decisions;
3. Ordering the Respondents to pay the costs of this application, jointly and severally, including the costs of two counsel, save that Second to Sixth Respondents shall be liable for such costs only in the event of them opposing the relief sought;
4. Granting to the Applicant such further and/or alternative relief as the Court may see fit.

TAKE NOTICE FURTHER THAT the accompanying affidavits of **VUYELWA NANDIPHA MASANGO** and **HILTON LEWIS TROLLIP** and the annexures thereto will be used in support of the application.

TAKE NOTICE FURTHER THAT Applicant has appointed **CHENNELLS ALBERTYN ATTORNEYS C/O PRETORIUS & CILLIERS** at the address below at which it will accept notice and service of all process in these proceedings.

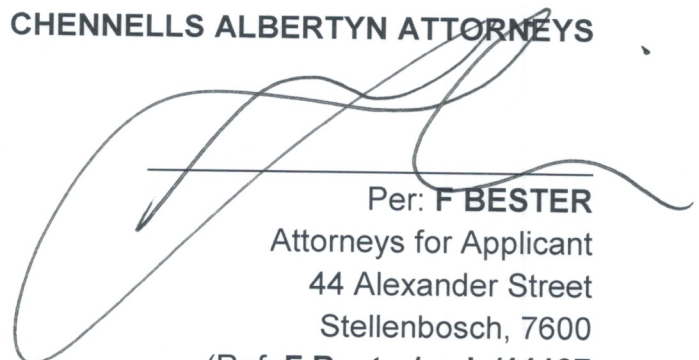
TAKE NOTICE FURTHER THAT First and Second Respondents are called upon to dispatch, within 15 (fifteen) days after receipt hereof, to the registrar of this Court, the record of the proceedings sought to be reviewed or set aside, together with such reasons as they are by law required or desire to give or make, and to notify Applicant that they have done so.

TAKE NOTICE FURTHER THAT if any of the Respondents intend opposing the relief sought in this notice of motion, they are required:

- (i) To deliver to the Applicant a notice of opposition and to appoint in such notice an address, within 15 (fifteen) kilometres of the office of the Registrar of the Court, at which they will accept notice and service of all process in these proceedings, within fifteen days after receipt of the notice of motion;
- (ii) To deliver any affidavits they may desire in answer to the allegations made by and on behalf of Applicant within 30 days after expiry of the time referred to in Rule 53(4), or such shorter period as may be determined by this Court.

DATED AT CAPE TOWN THIS 22ND DAY OF APRIL 2022.

CHENNELLS ALBERTYN ATTORNEYS



Per: **F BESTER**

Attorneys for Applicant

44 Alexander Street

Stellenbosch, 7600

(Ref: **F Bester/cvdv/11137**)

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C/O PRETORIUS & CILLIERS

810 Frhensch Street

Moreleta Park

PRETORIA

Tel: 012 997 3530

Ref: Karin Pretorius

TO: **THE REGISTRAR**
HIGH COURT
GAUTENG

AND TO: **NATIONAL ENERGY REGULATOR OF**
SOUTH AFRICA
First Respondent
Kulawula House
526 Madiba Street
Arcadia
PRETORIA

AND TO: **MINISTER OF MINERAL RESOURCES AND**
ENERGY
Second Respondent
192 Visagie Street
Cnr Paul Kruger & Visage Streets
PRETORIA

AND TO: **KARPOWERSHIP SA SALDANHA BAY**
(RF) PROPRIETARY LIMITED
Third Respondent
164 Totius Street
Groenkloof
PRETORIA

AND TO: **KARPOWERSHIP SA COEGA**
(RF) PROPRIETARY LIMITED
Fourth Respondent
164 Totius Street
Groenkloof
PRETORIA

AND TO: **KARPOWERSHIP SA RICHARDS BAY**
(RF) PROPRIETARY LIMITED
Fifth Respondent
164 Totius Street
Groenkloof
PRETORIA

AND TO: **ESKOM HOLDINGS SOC LIMITED**
Sixth Respondent
Megawatt Park
2 Maxwell Drive
SUNNINGHILL