

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

CASE NO: 320/23

In the matter between:

THE GREEN CONNECTION NPC

First Applicant

**SOUTH AFRICAN FAITH COMMUNITIES'
ENVIRONMENT INSTITUTE NPC**

Second Applicant

and

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

MINISTER OF MINERAL RESOURCES AND ENERGY

Second Respondent

NOTICE IN TERMS OF RULE 53 (1) (b)

BE PLEASED TO TAKE NOTICE that the First and Second Respondents' have filed with the Registrar of the above Honourable Court the record of proceedings in terms of Rule 53(1).

BE PLEASED TO TAKE NOTICE that an index to the aforementioned record is annexed hereto.

DATED AT CAPE TOWN THIS 17TH DAY OF FEBRUARY 2023.

STATE ATTORNEY

pp 

S CHOTHIA

Attorney for Second Respondent
4th Floor, 22 Long Street,
CAPE TOWN
(Ref.: 150/23/P5)

STATE ATTORNEY



S KARJIKER

Attorney for First Respondent
4th Floor, 22 Long Street,
CAPE TOWN
(Ref.: 149/23/P27)

TO : THE REGISTRAR

High Court

CAPE TOWN

AND TO : CHENNELS ALBERTYN ATTORNEYS

Applicants' Attorney

18A Greenwich Grove

Station road

RONDEBOSCH

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Ref: 11017 AD

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CASE NO: 320/23

In the matter between:

THE GREEN CONNECTION NPC

First Applicant

**SOUTH AFRICAN FAITH COMMUNITIES'
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Second Applicant

and

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA
Respondent

First

MINISTER OF MINERAL RESOURCES AND ENERGY
Respondent

Second

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(record filed obo First & Second Respondents)**

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DATED AT CAPE TOWN THIS 17TH DAY OF FEBRUARY 2023.

STATE ATTORNEY



S CHOTHIA

Attorney for Second Respondent
4th Floor, 22 Long Street,
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(Ref.: 150/23/P5)

STATE ATTORNEY



S KARJIKER

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TO : THE REGISTRAR

High Court

CAPE TOWN

AND TO : CHENNELS ALBERTYN ATTORNEYS

Applicants' Attorney

18A Greenwich Grove

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Tel: 021 685 8354

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Ref: 11017 AD

Your ref: The President of South Africa

Our ref: Green Connection/ap

Mr. Cyril Ramaphosa
President of the Republic of South Africa
Private Bag X1000
Pretoria
0001

By Email c/o: presidentrsa@presidency.gov.za
malebo@presidency.gov.za
khusela@presidency.gov.za

24 November 2020

Dear Mr President

Re: Proclamation of section 6 of the National Energy Act, 2008

We write to you on behalf of 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 Emergency.

The Green Connection has noted that the Honourable Minister of Mineral Resources & Energy (the Minister) recently in Parliament committed the Department of Mineral Resources and Energy (DMRE) to publishing an Integrated Energy Plan (IEP) before the end of the current parliamentary year.¹

The Green Connection cautiously welcomes this development, and looks forward to participating meaningfully in the process of developing the IEP together with many other interested and affected parties.

However, the Green Connection is deeply concerned that the development of the IEP will be meaningless given that section 6 of the National Energy Act, 2008² (NEA) - the statutory provision empowering the Minister to develop, review and publish the IEP - has not yet been brought into effect by the President.

Section 21 of the NEA provides that the Act comes into operation on a date determined by the President by Proclamation in the *Gazette*, and provides further that different dates may

¹ <https://parlyreportsa.co.za/tag/minister-gwede-mantashe/>

² Act 34 of 2008.

be so fixed in respect of different provisions of the Act.³ According to our research, three Proclamations have been gazetted, bringing into operation sections 17 to 19 on 1 April 2009, sections 7 to 16 on 1 April 2011, and sections 1 to 5 and 20 to 21 on 1 March 2012.⁴

However, no Proclamation has been published by the President bringing section 6 into operation, notwithstanding that the NEA was published in the Gazette as far back as 24 November 2008.⁵

The Green Connection believes that the NEA and the IEP have critical roles to play in shaping South Africa's energy future. The preamble to the NEA indicates that it was enacted (among other things) to ensure that diverse energy resources are available, in sustainable quantities and at affordable prices, to the South African economy in support of economic growth and poverty alleviation; and to provide for energy planning, including increased generation and consumption of renewable energies.

The importance of section 6 of the NEA is that it sets out various mandatory requirements for the IEP, including (among other things) that:

- The Minister must develop and, on an annual basis, review and publish the IEP in the *Gazette*;⁶
- The IEP must deal with issues relating to supply, transformation, transport, storage of and demand for energy in a way that accounts for (among other things) affordability, universal accessibility and free basic electricity, social equity and the environment;⁷
- The IEP must take into account plans relating to electricity, macro-economy infrastructure developments and the environment;⁸
- The IEP must have a planning horizon of no less than 20 years;⁹
- The IEP must serve as a guide for future energy infrastructure investments, and must guide the selection of appropriate technology to meet energy demand;¹⁰ and
- Before finalising the IEP, the Minister must invite public comment and duly consider such comments.¹¹

South Africa is at a crossroads regarding its energy future, with various plans and programmes being conceived and implemented in the absence of a lawful IEP, including but not limited to:

³ The Constitutional Court has held that such power conferred on the President 'is a public power and has to be exercised lawfully for the purpose for which it was given in the enactment. It could not lawfully be used to veto or otherwise block its implementation... The new section... remains in abeyance for reasons that Parliament did not contemplate when the power to implement was given to the President... Suffice is to say that the new section bears the stamp of approval of the legislature and could be put into operation within a matter of days.' See *Ex Parte Minister of Safety and Security and Others: In Re: S v Walters and Another 2002 (7) BCLR 663 (CC)*, at paragraph 73.

⁴ Proclamation No R. 19 of 1 April 2009 (GG 32802); Proclamation No. 28 of 1 April 2011 (GG 34175); and Proclamation No. 10 of 24 February 2012 (GG 35053).

⁵ GG 31638 of 24 November 2008.

⁶ Section 6(1).

⁷ Section 6(2).

⁸ Section 6(3).

⁹ Section 6(5).

¹⁰ Section 6(6)(a) and (c).

¹¹ Section 6(7).

the Integrated Resources Plan, 2019; renewable energy programmes; energy from gas programmes and associated infrastructure; accelerated onshore and offshore oil and gas exploration; and the development of a roadmap towards a possible future 2500MW new nuclear build programme (in respect of which the Minister recently submitted a determination in terms of s34 of the Electricity Regulation Act¹² to the National Energy Regulator of South Africa (NERSA) for their concurrence). Having regard to South Africa's energy future and its response to the global Climate Emergency, including the just energy transition, Green Connection strongly believes that these plans and programmes should be guided by a lawful IEP that is developed subject to the mandatory requirements contained in s6 of the NEA as envisaged by Parliament.

In the circumstances, the Green Connection respectfully calls upon the President to urgently issue a Proclamation bringing s6 of the NEA into operation.

Should the President not be inclined to urgently issue a Proclamation bringing s6 of the NEA into operation, the Green Connection respectfully requests that the President to provide a full explanation for not doing so.

We look forward to receiving your urgent response.

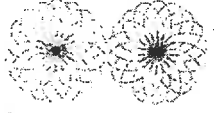
Yours sincerely



Adrian Leonard Pole

¹² 4 of 2006.

ADRIAN POLE



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Your ref: The President of South Africa

Our ref: Green Connection/ap

Mr. Cyril Ramaphosa
President of the Republic of South Africa
Private Bag X1000
Pretoria
0001

By Email c/o: presidentrsa@presidency.gov.za
malebo@presidency.gov.za
khusela@presidency.gov.za

7 December 2020

Dear Mr President

Re: Proclamation of section 6 of the National Energy Act, 2008

We refer to our letter dated 24 November 2020, and to the emailed response received from the Private Office of the President on 27 November 2020.

The Green Connection will engage directly with the Department of Mineral Resources and Energy (DMRE) should the DMRE proceed with the publishing an Integrated Energy Plan (IEP).

However, as indicated in our letter of 24 November 2020, section 21 of the National Energy Act, 2008 (NEA) provides that the NEA comes into operation on a date determined by the President by Proclamation in the *Gazette*. While such Proclamations have been gazetted bringing into operation sections 17 to 19 on 1 April 2009, sections 7 to 16 on 1 April 2011, and sections 1 to 5 and 20 to 21 on 1 March 2012,¹ no Proclamation has been published by the President bringing section 6 into operation (notwithstanding that the NEA was published in the *Gazette* as far back as 24 November 2008).²

Given that it the President determines the date when section 6 of the NEA comes into operation, our correspondence was appropriately addressed to the President.

In the circumstances, and for the reasons set out in our letter dated 24 November 2020, the Green Connection respectfully reiterates its call upon the President to urgently issue a Proclamation bringing section 6 of the NEA into operation.

¹ Proclamation No R. 19 of 1 April 2009 (GG 32802); Proclamation No. 28 of 1 April 2011 (GG 34175); and Proclamation No. 10 of 24 February 2012 (GG 35053).

² GG 31638 of 24 November 2008.

Should the President not be inclined to urgently issue a Proclamation bringing section 6 of the NEA into operation, the Green Connection reiterates its request that the President provide a full explanation for not doing so.

We look forward to receiving the President's urgent response.

Yours sincerely



Adrian Leonard Pole



THE PRESIDENCY: REPUBLIC OF SOUTH AFRICA
Private Bag X 1000, Pretoria, 0001

Mr Adrian Leonard Pole
Adrain Pole Environmental Law
P O Box 671
Hillcrest
3650

Per email: adrian@adrianpole.co.za

Dear Mr. Pole,

Proclamation of section 6 of the National Energy Act, 2008

Reference is made to your letter dated 07 December 2020 on the above matter.

Your letter has been referred to the Legal and Executive Services Unit for further processing and response.

In terms of the government administrative processes relating to the proclaiming of the commencement date of the Act or particular section(s) of the Act, the relevant Minister / relevant national government department which administer the Act will advise the President of its readiness to implement such Act or particular section(s) of the Act.

The Minister of Mineral Resources and Energy has not yet recommended to the President to bring section 6 of the Natation Energy Act, 2008 into operation.

Your letter was referred to the Department of Mineral Resources and Energy for further advice. We will revert to you as soon as we receive the response Mineral Resources and Energy.

We trust you will find the above in order.

Yours faithfully

Geoffrey Mphaphuli
Acting Head: Legal and Executive Services unit

Date:

14/12/2020

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Your ref: The President of South Africa

Our ref: Green Connection/ap

Mr. Cyril Ramaphosa
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pieter.alberts@dmre.gov.za

17 June 2021

Dear Mr President

Re: Proclamation of section 6 of the National Energy Act, 2008

We refer to our letters written on behalf of the Green Connection dated 24 November 2020 and 7 December 2020, to our emails dated 12 February 2021 and 24 March 2021, and to the emailed responses received from the Private Office of the President on 27 November 2020, 14 December 2020 and 26 March 2021.

We understand from your 14 December 2020 letter that the Minister of Mineral Resources and Energy has not yet recommended to the President to bring section 6 of the National Energy Act, 2008 (NEA) into effect, that our letter of 7 December 2020 had been referred to the Department of Mineral Resources and Energy (DMRE) for further advice, and that your office would revert to us as soon as a response was received from the DMRE. We understand further from your office's last emailed communication of 26 March 2021 that the Presidency had still not received a response from the DMRE, that your Mr Mphaphuli had spoken with the DMRE's Mr Pieter Alberts, and that Mr Alberts would be making follow-up with the relevant branch in his office.

To date we have not received any further communication from the Presidency or the DMRE.

As indicated in previous correspondence, section 21 of the NEA provides that the NEA comes into operation on a date determined by the President by Proclamation in the *Gazette*, and

that despite having been approved by the legislature in 2008 (over twelve years ago), no Proclamation has been gazetted bringing section 6 into effect.

Having regard to the current energy crisis, the climate emergency and the various (and often controversial) energy and electricity-generation plans and programmes (including procurement programmes) that are being actively promoted and pursued by the DMRE, the Green Connection is of the view that it is of critical importance to sound energy planning that section 6 of the NEA be brought into effect without any further delay, and that a lawful IEP is developed in accordance with its provisions.

The Green Connection welcomes the President's recent announcement that government will increase the threshold for companies to produce their own electricity without a license to 100MW, and believes that this emphasises the need for lawful integrated energy planning. The Green Connection also notes that the Presidential Climate Change Coordinating Commission is coordinating the just energy transition to a low carbon economy. The Green Connection believes that an orderly transition from reliance on unsustainable fossil fuels and nuclear energy to a sustainable renewable energy future requires integrated energy planning as a core part of this transition, and that it is difficult to see how such a just energy transition can take place without a lawful IEP.

The power conferred on the President to bring section 6 of the NEA into effect is a public power that must be exercised lawfully for the purpose for which it was given, and should not be used to veto or otherwise block its implementation. Section 6 of the NEA was approved by the legislature in 2008, and we respectfully submit that it could be brought into effect by the President within a short period of time.

In the circumstances, the Green Connection repeats its call upon the President to urgently issue a Proclamation bringing s6 of the NEA into operation. It has been over 7 months since the Green Connection's request was first communicated to the President.

We also repeat the Green Connection's request that, should the President not be inclined to urgently issue a Proclamation bringing s6 of the NEA into operation, the President urgently provides a full explanation for not doing so.

The Green Connection reserves its rights, including its right to approach the Courts for appropriate relief.

Yours sincerely



Adrian Leonard Pole



mineral resources
& energy

Department:
Mineral Resources and Energy
REPUBLIC OF SOUTH AFRICA

Enquiries: Thabang Audat; Mobile: 082 839 9567; Email: Thabang.Audat@dmre.gov.za

Physical Address: Matimba House; 192 Visagie, Pretoria, 0001

Ms. Phindile Baleni

Director General

Presidency

Pretoria

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nokukhanva@presidency.gov.za

cc: geofrey@presidency.gov.za

RE: PROCLAMATION OF SECTION 6 OF THE NATIONAL ENERGY ACT (ACT 34 OF 2008)

I refer to the letter dated 17 June 2021 from Green Connection relating to the above topic. The letter is addressed to his Excellency, President Ramaphosa (**see attached**).

The department was requested by Presidency to respond to this letter as it is specific to energy planning issues. I thus provide the following response:

The development of the Integrated Energy Plan (IEP) is informed by the output of analyses founded on a solid fact base. The IEP is a multi-faceted, long-term energy framework which has multiple objectives, some of which include:

- To guide the development of energy policies and, where relevant, set the framework for regulations in the energy sector;
- To guide the selection of appropriate technologies to meet energy demand at an affordable cost (i.e. the types and sizes of new power plants, gas infrastructure and petroleum refineries to be built);
- To guide investment in and the development of energy infrastructure in South Africa; and
- To propose alternative energy strategies which are informed by testing the potential impacts of various factors such as proposed policies, introduction of new technologies, environmental considerations and effects of exogenous macro-economic factors.

The IEP considers the national energy supply and demand balance and proposes alternative capacity expansion plans based on varying sets of assumptions and constraints across energy sectors (electricity sector, petroleum sector and gas sector). It, however, does not explicitly consider supply and demand at specific geographical locations within the country nor does it take into account sector specific infrastructure constraints at specific locations. It is thus important to develop an understanding of sector specific constraints, through undertaking detailed sector studies and analysis. This is a crucial exercise that must be diligently undertaken in order to develop an IEP which is credible and technically sound for South Africa.

The Department, together with relevant State Entities, has thus undertaken the following sector plans to understand specific sector constraints to date;

1. Electricity Distribution Industry Asset Assessment
2. Electricity Transmission Plan
3. Electricity Generation Plan (Integrated Resource Plan (version 2010 and 2019)
4. Draft liquid fuels master plan (a 20-Year liquid fuel infrastructure roadmap) which deals with logistical issues relating to pipelines and storage facilities for petroleum products.
5. Draft Gas Utilization Masterplan (GUMP 2015) and

6. Gas Master Plan (GMP 2022) (currently under development)

All of the above sector plans will, once approved by Cabinet, feedback into the Integrated Energy Planning process and will enable overall enhancement and an integrated approach to South Africa's energy planning process. The draft IEP was published in 2015 and the idea is to improve this draft with inputs from the above sector plans in order for the IEP to be technically sound and based on credible, factual data.

As stated before, once fully developed, the IEP will provide a basis/platform to evaluate the impact and effect of different government policies simultaneously such as testing the impact of emission reduction limit with energy efficiency interventions as well as the effect of the Carbon Tax policy together with improvement in vehicle efficiency and implementation of the solar water heating programme, amongst other interventions that Government is implementing.

The future iterations of the sector plans review will, from the point the IEP is approved by Cabinet forward, therefore be informed by the IEP as the overarching country energy policy. However, in order to develop the first credible IEP, the above approach (i.e. sector study/ analysis) is technically sound and addresses the unique technical nature of South Africa's energy planning.

Given the period it ordinarily take for the sector specific policies to be developed and approved by Cabinet, taking into account NEDLAC consultations (approximately 6 months), internal government consultations (approximately 3 months) and general public consultations (approximately 2 months) and the required internal technical modelling exercise, report drafting and editing, the Department is of the view that enacting section 6 of the National Energy Act (Act 34 of 2008) should be considered once the all sector plans have been completed (or near completion) and approved by Cabinet. Enacting section 6 prior to completing the relevant sector plans could result in the Department

violating the very same section as it might not be able to comply with the prescribed timelines for the development and review of IEP for reasons outlined above.

Recognizing the impact that lack of energy security supply poses to the economy, the Department has revised schedule 2 regulations under the Electricity Regulations Act (Act 4 of 2006) to enable electricity generation from embedded generators of up to 100 MW per site. The process to finalize the schedule is currently at the Regulator. The Department has also issued a request for proposal to procure up to 2000 MW of electricity generation capacity, this process is at an advanced stage. All this is done in the Department efforts to address the current energy shortfall.

It should be noted further that the policy implementation of the capacity under the IRP2019 is being expedited to procure generation capacity from renewable energy (up to 20 400 MW), hydro scheme (up to 2500 MW), gas to power (up to 3000 MW), storage (up to 2100 MW) and coal (up to 1500 MW).

The officials responsible for energy planning are available for further technical discussions on this very important topic.

I hope you find the above in order.



Adv. Thabo Mokoena

Director-General

Department of Mineral Resources & Energy

Date:

02/07/2021

13



THE PRESIDENCY: REPUBLIC OF SOUTH AFRICA
Private Bag X 1000, Pretoria, 0001

Adv. Thabo Mokoena
Director-General of the Department of Mineral Resources and Energy
Private Bag X59
ARCADIA
0007

Per email: Thabo.Mokoena@dmre.gov.za

Dear Adv. Mokoena,

Proclamation of section 6 of the National Energy Act, 2008

Your letter dated 2 July 2021 on the above matter refers.

Section 6 of the National Energy Act, 2008 (the Act), amongst others, requires the Minister of Mineral Resources and Energy (the Minister) to develop and, on an annual basis, review and publish the Integrated Energy Plan in the *Gazette*.

We have noted from your letter that the Department of Mineral Resources and Energy is not yet ready to recommend to the President to bring section 6 of the Act into operation.

Considering the technical nature of this matter, the obligation placed on the Minister in term of section 6 of the Act and the work the Department Mineral Resources and Energy is still doing before it can recommend to the President to bring section 6 of the Act into operation, it will be appreciated if your office respond directly to the letter from Green Connection's lawyers and copy me. Green Connection can then engage directly with your office if they require further clarification on the matter.

Yours sincerely

Phindile Baleni (Ms)
Director-General and Secretary of the Cabinet
Date:



mineral resources
& energy

Department:
Mineral Resources and Energy
REPUBLIC OF SOUTH AFRICA

Enquiries: Thabang Audat; Mobile: 082 839 9567; Email: Thabang.Audat@dmre.gov.za

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cc: nokukhanya@presidency.gov.za

cc: geofrey@presidency.gov.za

RE: PROCLAMATION OF SECTION 6 OF THE NATIONAL ENERGY ACT, 2008 (ACT 34 OF 2008)

I refer to your letter dated 17 June 2021 on behalf of the Green Connection addressed to his Excellency, President Ramaphosa relating to the above matter (**copy attached**).

The Department was requested by the Presidency to respond to this letter as it is specific to energy planning issues. I thus provide the following response.

The development of Integrated Energy Plan (IEP) is informed by the output of analyses founded on a solid fact base. The IEP is a multi-faceted, long-term energy framework which has multiple objectives, some of which include:

- To guide the development of energy policies and, where relevant, set the framework for regulations in the energy sector;
- To guide the selection of appropriate technologies to meet energy demand at an affordable cost (i.e. the types and sizes of new power plants, gas infrastructure and petroleum refineries to be built);
- To guide investment in and the development of energy infrastructure in South Africa; and
- To propose alternative energy strategies which are informed by testing the potential impacts of various factors such as proposed policies, introduction of new technologies, environmental considerations and effects of exogenous macro-economic factors.

The IEP considers the national energy supply and demand balance and proposes alternative capacity expansion plans based on varying sets of assumptions and constraints across energy sectors (electricity sector, petroleum sector and gas sector). It, however, does not explicitly consider supply and demand at specific geographical locations within the country nor does it take into account sector specific infrastructure constraints at specific locations. It is thus important to develop an understanding of sector specific constraints, through undertaking detailed sector studies and analysis. This is a crucial exercise that must be diligently undertaken in order to develop an IEP which is credible and technically sound for South Africa.

The Department, together with relevant State Entities, has thus undertaken the following sector plans to understand specific sector constraints to date:

1. Electricity Distribution Industry Asset Assessment,
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All of the above sector plans will, once approved by Cabinet, feedback into the Integrated Energy Planning process and will enable overall enhancement and an integrated approach to South Africa's energy planning process. The draft IEP was published in 2015 and the idea is to improve this draft with inputs from the above sector plans in order for the IEP to be technically sound and based on credible, factual data.

As stated before, once fully developed, the IEP will provide a basis/platform to evaluate the impact and effect of different government policies simultaneously such as testing the impact of emission reduction limit with energy efficiency interventions as well as the effect of the Carbon Tax policy together with improvement in vehicle efficiency and implementation of the solar water heating programme, amongst other interventions that Government is implementing.

The future iterations of the sector plans review will, from the point the IEP is approved by Cabinet forward, therefore be informed by the IEP as the overarching country energy policy. However, in order to develop the first credible IEP, the above approach (i.e. sector study/ analysis) is technically sound and addresses the unique technical nature of South Africa's energy planning.

Given the period it would ordinarily take for the sector specific policies to be developed and approved by Cabinet, taking into account NEDLAC consultations (approximately 6 months), internal government consultations (approximately 3 months) and general public consultations (approximately 2 months) and the required internal technical modelling exercise, report drafting and editing, the Department is of the view that bringing section 6 of the National Energy Act, 2008 into force should be considered once the all sector plans have been completed (or near completion) and approved by Cabinet. Bringing section 6

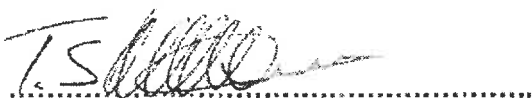
into effect prior to completing the relevant sector plans could result in the Department failing to comply with the prescribed timelines for the development and review of the IEP, for reasons outlined above.

Recognizing the impact that the lack of energy security supply poses to the economy, the Department is revising Schedule 2 of the Electricity Regulation Act, 2006 (Act 4 of 2006) to enable electricity generation from embedded generators of up to 100 MW per site. The process to finalize the schedule is currently with the Regulator. The Department has also issued a request for proposal to procure up to 2000 MW of electricity generation capacity, this process is at an advanced stage. All this is done in an effort by the Department to address the current energy shortfall.

It should be noted further that the policy implementation of the capacity under the IRP2019 is being expedited to procure generation capacity from renewable energy (up to 20 400 MW), hydro scheme (up to 2500 MW), gas to power (up to 3000 MW), storage (up to 2100 MW) and coal (up to 1500 MW).

The officials responsible for energy planning are available for further technical discussions on this very important topic.

I hope you find the above in order.

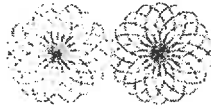


Adv. Thabo Mokoena

Director-General

Department of Mineral Resources & Energy

Date: 21/07/2021



Your ref: The President of South Africa

Our ref: Green Connection/ap

To: Advocate Thabo Mokoena
Director-General
Department of Mineral Resources & Energy

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nokukhanya@presidency.gov.za

27 October 2021

Dear Adv. Mokoena

Re: **Proclamation of section 6 of the National Energy Act, 2008**

We refer to your letter dated 21 July 2021, responding to our letter dated 17 June 2021 on behalf of the Green Connection addressed to the President.

In essence, the Department of Mineral Resources & Energy's (DMRE) response (to our client's request to the President to issue a Proclamation bringing section 6 of the National Energy Act, 2008 (NEA) into effect) is that the DMRE is of the view that a credible and technically sound IEP is dependent upon various sector plans being completed (or being near completion), and that:

"The Department is of the view that bringing section 6 of the National Energy Act, 2008 into force should be considered once the all (sic) sector plans have been completed (or near completion) and approved by Cabinet. Bringing section 6 into effect prior to completing the relevant sector plans could result in the Department failing to comply with the prescribed timelines for the development and review of the IEP."

We note that the DMRE has listed that following 'sector plans' that have been undertaken 'to understand specific sector constraints to date', namely:

- Electricity Distribution Industry Asset Assessment;
- Electricity Transmission Plan;
- Electricity Generation Plan (Integrated Resource Plan (version 2010 and 2019));
- Draft liquid fuels master plan;

- Draft Gas Utilisation Masterplan (GUMP 2015); and
- Gas Master Plan (GMP 2022) (indicated as currently under development).

We have attempted to ascertain the status of these 'sector plans', but - save for the *IRP2010* and *IRP2019* – the current status of these 'sector plans' could not readily be established. The *Electricity distribution Industry Asset Assessment* and *Electricity Transmission Plan* could not be found through our online search, while an *Energy Security Master Plan – Liquid Fuels* was gazetted back in 2007.¹ Regarding the development of the GUMP, information on the DMRE Independent Power Producer (IPP) website indicates that 'the Department is, at present, finalising a GUMP for South Africa',² while the requirement for the Minister to compile a *Gas Master Plan* is included in proposed amendments to the Gas Act.³

In light of the above, we would be grateful if you could clarify the following:

1. Are the six sector plans referred to the only sector plans that in the DMRE's view should be completed (or near completion) and approved by Cabinet before consideration should be given to bringing section 6 into operation?
2. If not, could you please indicate what other sector plans also need be completed (or near completion) and approved by Cabinet before consideration should be given to bringing section 6 into operation?
3. Can you please indicate the current status of each of the sector plans that need to be completed?
4. Can you please advise where such sector plans (or draft plans) may be accessed (other than the IRP2010 and IRP2019)?
5. Can you please clarify whether the Minister has published an analysis of energy data in accordance with section 3(4)(a) and section 3(5) of the NEA, and if so where such analysis can be accessed?

Yours sincerely



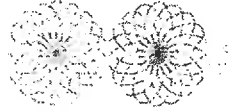
Adrian Leonard Pole

¹ GN859 of 12 September 2007. The notice indicates that this Energy Security Master Plan – Liquid Fuels 'elucidates South Africa's energy security strategy and includes the integrated energy modelling and planning approach, approved by Cabinet at its ordinary meeting held in Pretoria on 8 August 2007'.

² <https://www.ipp-gas.co.za/>

³ Gas Amendment Bill, 2021. The Bill proposes to insert the following definition of 'gas master plan': '...an indicative, forward-looking plan for gas supply and demand, compiled in accordance with the provisions of section 28A in order to reflect national policy on gas infrastructure planning, which considers the sources from which gas is, and may be, supplied, and also considers the development, strengthening, upgrading and refurbishment of the gas transmission network and the linkages between this system and any relevant facilities for the import or export of gas necessary to supply the anticipated demand'. See also proposed new section 28A.

ADRIAN POLE



ENVIRONMENTAL LAW

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Your ref: The President of South Africa

Our ref: Green Connection/ap

Mr. Cyril Ramaphosa
President of the Republic of South Africa
Private Bag X1000
Pretoria
0001

By Email c/o: geofrey@presidency.gov.za

Cc'd to: robert@presidency.gov.za
nomusa@presidency.gov.za
makhosini@presidency.gov.za
mike@presidency.gov.za
angeline@presidency.gov.za
mikile@presidency.gov.za
pieter.alberts@dmre.gov.za

27 October 2021

Dear Mr President

Re: Proclamation of section 6 of the National Energy Act, 2008

We refer to our letters written on behalf of our client, the Green Connection, dated 24 November 2020 and 7 December 2020, to our emails dated 12 February 2021 and 24 March 2021, and to the emailed responses received from the Private Office of the President on 27 November 2020, 14 December 2020 and 26 March 2021, to the letter from the Presidency dated 14 December 2020, and to the subsequent letter from the Department of Mineral Resources & Energy (DMRE) dated 21 July 2021.

As you will be aware from the correspondence set out above, our client has made several requests to the President to exercise the power given to him in section 21 of the National Energy Act, 2008 (NEA) by issuing a Proclamation bringing section 6 of the NEA into operation.

Having regard to the current energy crisis, the climate emergency and the various (and often controversial) energy and electricity-generation plans and programmes (including procurement programmes) that are being actively promoted and pursued by the DMRE, our client remains of the view that it is of critical importance to sound energy planning that section 6 of the NEA be brought into effect without any further delay, and that a lawful IEP is developed in accordance with its provisions.

In its letter dated 14 December 2020, the Presidency advised that in terms of government administrative processes relating to the proclaiming of the commencement date of an Act or a particular section(s) thereof, the relevant Minister / relevant national government department which administer the Act will advise the President of its readiness to implement such Act or particular section(s).

The Presidency advised further that the Minister responsible for Mineral Resources and Energy ('the Minister') has not yet recommended to the President to bring section 6 of the NEA into operation, and that our client's letter of 7 December 2020 had been referred to the DMRE for further advice.

On 21 July 2021, the DMRE responded to our follow-up letter to the Presidency dated 17 June 2021. In essence, the DMRE's response is that it is of the view that a credible and technically sound IEP is dependent upon various sector plans being completed (or being near completion), and that:

"The Department is of the view that bringing section 6 of the National Energy Act, 2008 into force should be considered once the all (sic) sector plans have been completed (or near completion) and approved by Cabinet. Bringing section 6 into effect prior to completing the relevant sector plans could result in the Department failing to comply with the prescribed timelines for the development and review of the IEP."

The letter from the Presidency dated 14 December 2020 reveals that the Minister has not yet made a recommendation to the President to bring section 6 of the NEA into operation.

The letter from your office does not indicate whether the DMRE has reported to the President on its readiness to implement section 6 of the NEA, or whether the DMRE's reasons for not recommending that section 6 be brought into operation have been communicated to and duly considered by the President (having regard also to other relevant factors, such as the obligation to perform all constitutional obligations diligently and without delay¹).

While it may be so that in terms of government administrative processes, the details of which are not specified in your letter, the relevant Minister or Department which administers an Act will advise the President of its readiness to implement a particular section, this administrative process cannot override the President's constitutional obligation to determine, in the exercise of his independent discretion, when the section should be brought into operation. As we have pointed out previously, the power conferred on the President to bring section 6 of the NEA into effect is a public power that must be exercised lawfully for the purpose for which it was given. The letter from your office dated 14 December 2020 furthermore does not provide clarity regarding the detailed considerations taken into account by the President in deciding not to exercise his power to bring section 6 of the NEA into operation nor does it indicate whether, irrespective of any other considerations, no decision by the President will be made to bring section 6 of the NEA into operation in the absence of a recommendation by the Minister or the DMRE to do so.

¹ SA Constitution, section 237.

Our client's view is that the stated approach of the DMRE - that bringing section 6 of the NEA into force should be considered once all sector plans have been completed (or are near completion) and approved by Cabinet – is fundamentally flawed for a number of reasons.

Firstly, there is no statutory basis for the DMRE's position that the development of an IEP in terms of section 6 of the NEA is dependent upon sector plans being finalised, and it would be irrational for the President to depend on the Minister to finalise policy before bringing section 6 into operation. The NEA was approved by the National Assembly in 2008 and - save for section 6 - the rest of the NEA has been brought into operation by Presidential proclamations.² The NEA does not give any indication that section 6 should be brought into effect only when the sector plans referred to in the DMRE's letter have been completed (or are near completion), nor does it make the development of an IEP dependent upon the completion of such sector plans.

Secondly, it is clear from the wording of section 6 of the NEA that the legislature intended that the IEP would take account of plans in various sectors, would inform and be informed by these plans, and would be based on the results of energy analysis (which the Minister is required to publish annually). This is evident from section 6(3), which provides that the development of the IEP must:

- (a) take account of plans relating to transport, electricity, petroleum, water, trade, macro-economy energy infrastructure development, housing, air quality management, greenhouse gas mitigation within the energy sector and integrated development plans of local and provincial authorities;
- (b) inform and be informed by plans from all supply, production and demand sectors whose plans impact on or are impacted by the Integrated Energy Plan; and
- (c) be based on the results of the energy analysis envisaged in sections 3 (4) (a) and 3 (5).³

Thirdly, in its letter, the DMRE recognises that *'future iterations of the sector plans review will, from the point the IEP is approved by Cabinet forward, therefore be informed by the IEP as the overarching country energy policy'*, but illogically goes on to state that *'in order to develop the first credible IEP, the above approach (i.e. sector study / analysis) is technically sound and addresses the unique technical nature of South Africa's energy planning.'*

² Sections 17, 18 and 19 were brought into operation on 1 April 2009 (Proclamation 19 of 1 April 2009). These sections deal with security of supply (Chapter 5), and in particular the acquisition and maintenance of national strategic energy feedstocks and carriers, and investment in and maintenance of the energy infrastructure. Chapter 4 (dealing with the establishment of the South African National Energy Development Institute) was brought into operation on 1 April 2011 (Proclamation 28 of 1 April 2011). Sections 1, 2, 3, 4, 5, 20 and 21 were brought into operation on 1 March 2012 (Proclamation 10, GG 35053, 24 February 2012).

³ Section 6(3). Section 3(4)(a) requires the Minister to collect, collate and analyse energy data and information, while section 3(5) requires the Minister to annually publish an analysis:

- (a) reviewing energy demand and supply for the previous year;
- (b) forecasting energy supply and demand for no less than 20 years; and
- (c) of plausible energy scenarios of how the future energy demand and supply landscape could look like under different demand and supply assumptions.

There is simply no statutory basis for the DMRE's contention that a credible IEP is dependent upon a sector study / analysis approach.

Fourthly, in our client's view, it would be irrational to make the development of the IEP dependent upon sector plans that - as far as we can determine - have no legislative basis or prescribed time-lines, as the development of these sector plans as policy could be endless. The DMRE lists the following 'sector plans' that have been undertaken '*to understand specific sector constraints to date*', namely:

- Electricity Distribution Industry Asset Assessment;
- Electricity Transmission Plan;
- Electricity Generation Plan (Integrated Resource Plan (version 2010 and 2019);
- Draft liquid fuels master plan;
- Draft Gas Utilisation Masterplan (GUMP 2015); and
- Gas Master Plan (GMP 2022) (indicated as currently under development).

We have attempted to ascertain the status of these 'sector plans', but - save for the *IRP2010* and *IRP2019* - the current status of these 'sector plans' could not readily be established. The *Electricity distribution Industry Asset Assessment* and *Electricity Transmission Plan* could not be found through our online search, while an *Energy Security Master Plan - Liquid Fuels* was gazetted back in 2007.⁴ Regarding the development of the GUMP, information on the DMRE Independent Power Producer (IPP) website indicates that '*the Department is, at present, finalising a GUMP for South Africa*',⁵ while the requirement for the Minister to compile a *Gas Master Plan* is included in proposed amendments to the Gas Act.⁶

The DMRE's view that section 6 of the NEA should not be brought into operation until these (and potentially other unspecified) sector plans are finalised at some future unspecified date is therefore likely to result in an indefinite delay.

Finally, the failure to bring section 6 of the NEA into effect frustrates the purpose and objects of the NEA. The NEA was enacted to (among other things) ensure diverse energy resources are available, in sustainable quantities and at affordable prices, to the South African economy in support of economic growth and poverty alleviation, taking into account environmental management requirements and interactions amongst other economic sectors; and to provide for energy planning, increased generation and consumption of renewable energies, and adequate investment in, appropriate upkeep of and access to energy infrastructure.⁷ Its objects include (among other things) to ensure uninterrupted supply of energy to the

⁴ GN859 of 12 September 2007. The notice indicates that this Energy Security Master Plan - Liquid Fuels 'elucidates South Africa's energy security strategy and includes the integrated energy modelling and planning approach, approved by Cabinet at its ordinary meeting held in Pretoria on 8 August 2007'.

⁵ <https://www.ipp-gas.co.za/>

⁶ Gas Amendment Bill, 2021. The Bill proposes to insert the following definition of 'gas master plan': '*...an indicative, forward-looking plan for gas supply and demand, compiled in accordance with the provisions of section 28A in order to reflect national policy on gas infrastructure planning, which considers the sources from which gas is, and may be, supplied, and also considers the development, strengthening, upgrading and refurbishment of the gas transmission network and the linkages between this system and any relevant facilities for the import or export of gas necessary to supply the anticipated demand*'. See also proposed new section 28A.

⁷ Preamble.

Republic, and to ensure effective planning for energy supply, transportation and consumption.

Our client records that in its view, the failure to bring section 6 of the NEA into effect, and the subsequent failure of the DMRE to develop and update an IEP in accordance with the mandatory provisions of the IEP, has resulted in poor energy planning for over a decade. Instead of energy infrastructure developments and the selection of appropriate technology to meet energy demand being guided by an IEP developed, annually reviewed and published in accordance with section 6 of the NEA, a number of contentious energy infrastructure developments and electricity generation programmes are being pursued without the guidance of an IEP that takes into account sustainable development, economic viability, and environmental, health and socio-economic impacts (amongst others).⁸ The DMRE itself indicates in its letter that various projects are being rolled-out to address electricity shortages, including a request for proposals to procure up to 2000 MW of electricity generation capacity in an effort to address the current energy shortfall, and expediting of policy implementation of the capacity under the IRP2019 to procure generation capacity from various sources (renewable energy, hydro, gas to power, storage and coal). Additional examples include the DMRE's planned commencement of a new 2500MW nuclear new build programme, as well as its liquid natural gas (LNG) infrastructure programme. This risks locking South Africa in to long-term energy infrastructure developments and electricity generation programmes, without being guided by an IEP developed in accordance with section 6 of the NEA.

In contrast, bringing section 6 into operation would give effect to the purpose and objects of the NEA by providing for effective energy planning, and would result in an IEP (following the required public comment process) that would in turn serve as a guide for energy infrastructure investments, and which would also guide the selection of appropriate technologies.⁹

In the circumstances, we are instructed to address the following queries to the President:

- (1) Given the considerations and factors set out above, whether the President remains of the view that he will not take steps to bring section 6 of the NEA into operation until such time as the DMRE makes a recommendation to him to do so?
- (2) Whether the President is aware of the DMRE's position, namely that bringing section 6 of the NEA into force should be considered once all sector plans have been completed (or near completion) and approved by Cabinet, and that bringing section 6 into operation prior to the completion of these sector plans could result in the

⁸ Section 6(4) stipulates that the development of the IEP **must take into account:**

- (a) **sustainable development;**
- (b) optimal use of indigenous and regional energy resources;
- (c) balance between supply and demand;
- (d) **economic viability;**
- (e) **environmental, health, safety and socio-economic impacts;** and
- (f) developmental requirements of the Southern African region.

⁹ Section 6(6)(a) and (c).

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DMRE failing to comply with the prescribed timelines for the development and review of the IEP?

We look forward to your urgent response to these queries and reserve all of our client's rights in relation to further appropriate steps it may institute in the light of this correspondence.

Yours sincerely



Adrian Leonard Pole

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P O Box 24308

Lansdowne

7779

Our ref: GC-IEP-2-11-22

Mr. Cyril M. Ramaphosa

President of the Republic of South Africa

Private Bag X1000

Pretoria

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By Email c/o: presidentrsa@presidency.gov.za ; malebo@presidency.gov.za ;
khusela@presidency.gov.za ; geofrey@presidency.gov.za

Cc'd to: robert@presidency.gov.za ; nomusa@presidency.gov.za ; makhosini@presidency.gov.za ;
mike@presidency.gov.za ; angeline@presidency.gov.za ; mkile@presidency.gov.za ;
pieter.alberts@dmre.gov.za ; nonhlanhla.ndebele@dmre.gov.za

2nd November 2022

Dear President Cyril Matamela Ramaphosa,

Re: Proclamation of Section 6 of the National Energy Act, 2008

1. As you know, section 6 of the National Energy Act, 2008 (NEA) remains on the statute books, but is not yet in operation. Section 21 invests you with the power to bring it into force when the circumstances are appropriate.
2. Green Connection is deeply concerned that the inoperative status of section 6 is retarding our nation's ability to respond to its energy crisis and to undertake long-term energy planning in a coordinated, democratic and environmentally sustainable manner. Section 6 of the NEA is meant to help us do just that. It requires the Minister responsible for energy to develop and maintain an Integrated Energy Plan (IEP), based on current science, long-term policy perspectives, global and domestic climate change strategies and public input.
3. Our Attorney, Adrian Pole, has tried to engage with your office and the Department of Mineral Resources & Energy (Department) by correspondence for almost two years. The exchanges stretch back to November 2020. The letters canvas substantive issues in detail (there were at least six requests on behalf of Green Connection). The goal was to help move the legislative process along, to breathe life into section 6.

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080-620-NPO

NPC 2021/773490/08

4. Sadly, nothing of substance has come of those engagements. Green Connection has been blocked at every turn from doing what it—and Parliament—knows to be right and lawful. When our requests for assistance from the Department got us nowhere, we invoked the statutory right to access information under PAIA. But our formal request was ignored. So was our appeal against the deemed refusal to give us information.
5. Green Connection's work in the energy space is beneficial, credible and—we believe—valuable. We have demonstrated the value of our efforts through fruitful engagements with officials and public representatives in the sector. And when cooperative endeavours have not succeeded, we have demonstrated the merit of our ideas in the courts.
6. We have already set out in earlier correspondence compelling legal and policy reasons for you to bring section 6 into operation. That you are unwilling to do so brings us to the point where Green Connection has to resort to the courts to bring the law into effect.
7. Green Connection has therefore instructed lawyers to draw a court application to review your failure or refusal to bring section 6 into force. This decision was based on the advice of independent senior and junior advocates who specialise in public law. We claim privilege over the advice, but want to convey the essence of the case against you.
 - a. Section 21 of the NEA requires you personally to determine that the circumstances are appropriate for bringing section 6 into operation. It requires constant vigilance on your part. But you have abdicated that responsibility to the Minister of Minerals and Energy.
 - b. Based on what we could learn from the Department, the Minister's reasons for not advising you to bring section 6 into effect are based on an untenable interpretation of section 6. Bringing it into operation would not, without more, expose the Minister to breach of a statutory obligation.
 - c. As it happens, the former Minister already started the process of developing the IEP. That is what section 6 would require. Cabinet—including your predecessor—approved the draft IEP, which was put out for public comment. Section 6 would also have required that. So why hold back on making the statutory duty effective?
 - d. The fact that the IEP has not been completed is no reason not to bring section 6 into operation. Section 6 would require a development process and ongoing refinement; it would not require a finished product the moment it is brought into operation. An IEP by its very nature is meant to evolve and not be static.
 - e. So any advice by the Minister that section 6 is not ripe for implementation would be unsupportable and not rationally related to the actual state of play, both past and present. It also does not fit with what the Minister intends to do—i.e. to continue to refine the draft IEP in anticipation of its publication.
 - f. The Minister is also mistaken in thinking that other sector plans need to be established before bringing section 6 into operation. The IEP under section 6 is meant to inform those sector plans, after all. The Minister is creating a catch-22 situation, irrationally.

- g. As far as you have relied on the Minister's unsupportable views, your own failure or refusal to bring section 6 into effect is legally tainted. And your inaction frustrates the objects of the NEA.
8. Disparate decisions about South Africa's energy future is something section 6 would curb, if brought into effect. Yet there are a host of energy projects being considered and undertaken without a comprehensive and long-term plan. The IEP would be that plan. It is meant to balance competing economic, environmental, political and social interest and set the context in which energy-related decisions should be made. It is unnecessary to list these projects to appreciate the point.
9. There is a burning need for an IEP. But the work done so far is meaningless without section 6 having legal effect.
10. These grounds are not meant to be exhaustive. What we want to convey is the nub of the problem as it will play out in a court and in the public arena. This could be averted by doing what section 21, the NEA's objects and Parliament demand—by bringing section 6 into force.
11. Green Connection intends to launch its court application imminently. We remain, however, open to meaningful engagement on this issue. Green Connection believes in dialogue and finding constructive solutions for the greater good. We therefore encourage you to reconsider your position and to approach this matter in the spirit of cooperation, and we will gladly avail ourselves to discuss and decide on steps to resolve this dispute.

Sincere regards,



L. McDaid

Strategic Lead, the Green Connection

From: adrian@adrianpole.co.za
Sent: Wednesday, 27 October 2021 14:57
To: Geofrey Mphaphuli
Cc: Robert Hlongwane; Nomusa Zondi; Makhosini Makhubele; Mike Louw; Angeline Coetzee; Mkile Zweni; 'Pieter Alberts'
Subject: Green Connection Letter to the President re. s6 of the National Energy Act / IEP
Attachments: Green Connection - Letter to President re s6 National Energy Act (27 Oct 2021).pdf

Dear Mr Mphaphuli

We refer to the above matter, to our previous correspondence and to a letter received from the Department of Mineral Resources & Energy dated 21 July 2021.

Please find attached our further letter to the President written on behalf of our client the Green Connection.

We look forward to receiving the President's response.

We would be most grateful if you could confirm receipt of this email and attached letter.

Yours sincerely

Adrian Leonard Pole
BA.LLB.MEnvDev.LLM

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Chothia Shakirah

From: Anthea Bester <Anthea@presidency.gov.za>
Sent: Wednesday, 15 February 2023 12:36
To: Anthea Bester
Subject: FW: Green Connection Letter to the President re. s6 of the National Energy Act / IEP

From: Geoffrey Mphaphuli <Geofrey@presidency.gov.za>
Sent: Friday, 26 March 2021 11:29
To: adrian@adrianpole.co.za
Cc: Robert Ngobeni-Hlongwane <Robert@presidency.gov.za>; Nomusa Zondi <Nomusa@presidency.gov.za>; Makhosini Makhubele <Makhosini@presidency.gov.za>; Mike Louw <mike@presidency.gov.za>; Angeline Coetzee <Angeline@presidency.gov.za>; Mkile Zweni <Mkile@presidency.gov.za>; Pieter Alberts <Pieter.Alberts@dmre.gov.za>
Subject: RE: Green Connection Letter to the President re. s6 of the National Energy Act / IEP

Morning

Thank you for the reminder. Kindly be advised we have not yet received the respond from Mineral Resources and Energy. I spoke to Mr Peter Alberts from the Mineral Resources he is making follow up with the relevant branch in his office, I have also copied him in this email.

We will revert you as soon as Mr Alberts revert to us.

Regards

Mr Geoffrey Mphaphuli
 Principal State Law Advisor
 The Presidency
 Tel: +27 12 300 5403
 Cell: +27 82 578 6484
 Fax: +27 12 300 5780
 E-mail: Geofrey@presidency.gov.za
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E-mail Disclaimer: <http://www.thepresidency.gov.za/pebble.asp?relid=97>

From: adrian@adrianpole.co.za <adrian@adrianpole.co.za>
Sent: Wednesday, March 24, 2021 1:08 PM
To: Geoffrey Mphaphuli <Geofrey@presidency.gov.za>
Cc: Robert Ngobeni-Hlongwane <Robert@presidency.gov.za>; Nomusa Zondi <Nomusa@presidency.gov.za>; Makhosini Makhubele <Makhosini@presidency.gov.za>; Mike Louw <mike@presidency.gov.za>; Angeline Coetzee <Angeline@presidency.gov.za>; Mkile Zweni <Mkile@presidency.gov.za>
Subject: RE: Green Connection Letter to the President re. s6 of the National Energy Act / IEP
Importance: High

Dear Mr Mphaphuli

We refer to our earlier correspondence, to your letter dated 14 December 2020, and to our email dated 12 February 2021 (to which we have had no response).

Please could you let us have an update regarding whether a response has been received from the Department of Mineral Resources & Energy.

Yours sincerely

Adrian Leonard Pole
BA.LLB.MEnvDev.LLM

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Website: www.adrianpole.co.za

From: adrian@adrianpole.co.za <adrian@adrianpole.co.za>
Sent: Friday, 12 February 2021 09:45
To: 'Geofrey Mphaphuli' <Geofrey@presidency.gov.za>
Cc: 'Robert Ngobeni-Hlongwane' <Robert@presidency.gov.za>; 'Nomusa Zondi' <Nomusa@presidency.gov.za>; 'Makhosini Makhubele' <Makhosini@presidency.gov.za>; 'Mike Louw' <mike@presidency.gov.za>; 'Angeline Coetzee' <Angeline@presidency.gov.za>; 'Mkile Zweni' <Mkile@presidency.gov.za>
Subject: RE: Green Connection Letter to the President re. s6 of the National Energy Act / IEP

Dear Mr Mphaphuli

We refer to our earlier correspondence, and to your letter dated 14 December 2020.

We would be most grateful if you could let us have an update regarding whether a response has been received from the Department of Mineral Resources & Energy?

Yours sincerely

Adrian Leonard Pole
BA.LLB.MEnvDev.LLM

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From: adrian@adrianpole.co.za <adrian@adrianpole.co.za>
Sent: Monday, 14 December 2020 20:28
To: 'Geofrey Mphaphuli' <Geofrey@presidency.gov.za>
Cc: 'Robert Ngobeni-Hlongwane' <Robert@presidency.gov.za>; 'Nomusa Zondi' <Nomusa@presidency.gov.za>; 'Makhosini Makhubele' <Makhosini@presidency.gov.za>; 'Mike Louw' <mike@presidency.gov.za>; 'Angeline

Coetzee' <Angeline@presidency.gov.za>; 'Mkile Zweni' <Mkile@presidency.gov.za>

Subject: RE: Green Connection Letter to the President re. s6 of the National Energy Act / IEP

Dear Mr Mphaphuli

Thank you for your email and attached letter, the contents of which are noted.

We look forward to hearing from you once you receive the response from the Mineral Resources and Energy.

Yours sincerely,

Adrian Leonard Pole

BA.LLB.MEnvDev.LLM

Adrian Pole Attorneys

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P O Box 671 · Hillcrest · 3650

KwaZulu-Natal · SA

Mobile: 082 340 8534

Email: adrian@adrianpole.co.za

Website: www.adrianpole.co.za

From: Geoffrey Mphaphuli <Geofrey@presidency.gov.za>

Sent: Monday, 14 December 2020 15:45

To: adrian@adrianpole.co.za

Cc: Robert Ngobeni-Hlongwane <Robert@presidency.gov.za>; Nomusa Zondi <Nomusa@presidency.gov.za>; Makhosini Makhubele <Makhosini@presidency.gov.za>; Mike Louw <mike@presidency.gov.za>; Angeline Coetzee <Angeline@presidency.gov.za>; Mkile Zweni <Mkile@presidency.gov.za>

Subject: RE: Green Connection Letter to the President re. s6 of the National Energy Act / IEP

Dear Mr Pole

Please find the attached letter as discussed.

Regards

Mr Geoffrey Mphaphuli

Principal State Law Advisor

The Presidency

Tel: +27 12 300 5403

ax: +27 12 300 5780

E-mail: Geofrey@presidency.gov.za

Website: www.thepresidency.gov.za

E-mail Disclaimer: <http://www.thepresidency.gov.za/pebble.asp?relid=97>

From: Robert Ngobeni-Hlongwane <Robert@presidency.gov.za>

Sent: Monday, December 7, 2020 12:18 PM

To: Geoffrey Mphaphuli <Geofrey@presidency.gov.za>

Cc: Nomusa Zondi <Nomusa@presidency.gov.za>; Makhosini Makhubele <Makhosini@presidency.gov.za>

Subject: FW: Green Connection Letter to the President re. s6 of the National Energy Act / IEP

Dear Mr Mphaphuli

Kindly find the attached correspondence for your draft response.

Regards

Robert

From: adrian@adrianpole.co.za [mailto:adrian@adrianpole.co.za]

Sent: Monday, 07 December 2020 09:29

To: Robert Ngobeni-Hlongwane <Robert@presidency.gov.za>

Cc: Nomusa Zondi <Nomusa@presidency.gov.za>; Makhosini Makhubele <Makhosini@presidency.gov.za>; Mike Louw <mike@presidency.gov.za>

Subject: RE: Green Connection Letter to the President re. s6 of the National Energy Act / IEP

Dear Mr Hlongwane

Thank you for your email dated 27 November 2020.

Please find attached our letter on behalf of the Green Connection in reply.

Yours sincerely

Adrian Leonard Pole

BA.LLB.MEnvDev.LLM

Adrian Pole Attorneys

13 Quarry Road · Assagay

P O Box 671 · Hillcrest · 3650

KwaZulu-Natal · SA

Mobile: 082 340 8534

Email: adrian@adrianpole.co.za

Website: www.adrianpole.co.za

From: Robert Ngobeni-Hlongwane <Robert@presidency.gov.za>

Sent: Friday, 27 November 2020 18:57

To: adrian@adrianpole.co.za

Cc: Nomusa Zondi <Nomusa@presidency.gov.za>; Makhosini Makhubele <Makhosini@presidency.gov.za>; Mike Louw <mike@presidency.gov.za>

Subject: FW: Green Connection Letter to the President re. s6 of the National Energy Act / IEP

Dear Mr Pole

Receipt of the correspondence addressed to the President of the Republic of South Africa, HE President Cyril Ramaphosa, is acknowledged with appreciation.

You are nevertheless directed to liaise with the Ministry of Mineral Resources and Energy as the best placed office to engage with. Please contact Mr George Lekorotsoana, Chief of Staff to the Minister, on 012 444 3856/ George.Lekorotsoana@dmre.gov.za

Kind regards

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Robert Hlongwane
Private Office of the President
West Wing, Room 65, Union Buildings
The Presidency
Tel: 012 300 5219
Website: www.thepresidency.gov.za
E-Mail: Robert@presidency.gov.za



From: adrian@adrianpole.co.za [mailto:adrian@adrianpole.co.za]

Sent: Tuesday, 24 November 2020 08:20

To: President RSA <PresidentRSA@presidency.gov.za>; Malebo Sibiya <malebo@presidency.gov.za>; Khusela Sangoni <khusela@presidency.gov.za>

Subject: Green Connection Letter to the President re. s6 of the National Energy Act / IEP

To whom it may concern

Please find attached letter for the attention of President Ramaphosa.

We would be grateful if you could acknowledge receipt hereof by return of email.

Yours faithfully

Adrian Leonard Pole
BA.LLB.MEnvDev.LLM

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