



SOUTHERN AFRICAN FAITH COMMUNITIES' ENVIRONMENT INSTITUTE (SAFCEI)

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“Faith communities committed to cherishing living earth.”
www.safcei.org.za

Executive Director: Bishop Geoff Davies
Office Tel: (+27) 21 7018145 Fax: (+27) 86 6969666
Home Tel: (+27)21 788 6591
Email: geoff.davies@safcei.org.za

P O Box 106
Kalk Bay,
7990
South Africa

24th May 2010

Attention:
Mr Ompie Aphane
Department of Energy
Email: ompi.aphane@energy.gov.za

Dear Mr Aphane,

Consultative Process for IRP2

SAFCEI has been aware that an Integrated Resource Plan (IRP2) that will determine our electricity plans for the next twenty years is currently underway.

From our interactions with government officials, particularly at the energy caucus on the 14th May 2010, it is disappointing to hear that while government professes to value and be committed to public participation in the IRP process, its actions undermine such statements.

SAFCEI is deeply disappointed in the proposed current government consultation plan for IRP2. The schedule pays lip service to public participation, the deadlines put forward for the consideration of government documents do not enable any meaningful participation and we would submit that this process appears to be not only inadequate but unlawful.

The Promotion of Administrative Justice Act (PAJA) provides for reasonable time- periods for public input with a minimum of 30 days, depending on the complexity of the information. . The novelty and complexity of electricity planning clearly warrants a longer period for adequate consultation, particularly in view of the fact that most citizens (educated and uneducated, rich and poor alike) have been excluded from these decision-making processes until now.

The Promotion of Access to Information Act (PAIA) suggests that in order for stakeholders to participate meaningfully, they need access to sufficient information to enable them to understand and critique the information put out by Eskom and Government.

The National Environmental Management Act (NEMA) that applies to all environmental decisions by state bodies states that public participation must be promoted so that all interested parties can participate in a meaningful manner.

It is clear that sending out via email a set of documents, in excess of 30 documents, with a response time of initially 7, extended now to the minimum 30 days is not reasonable.

At the Energy Caucus meeting, held in Gauteng on 14th May 2010, you indicated that DoE would welcome suggestions and ideas for a process of consultation.

SAFCEI therefore submits the following as a constructive input towards strengthening the democratic decision-making process around electricity planning for the next twenty years.

Firstly, SAFCEI believes that electricity planning is a subset of energy planning which in turn should be informed by our national response to climate change, the nature of our commitment to renewable energy, and future economic plans. We therefore believe that the review of the Renewable Energy White Paper, the finalization of our response to climate change and our Integrated Energy Plan should be informants into the IRP2 process. Any IRP2 should therefore remain in draft form until the other planning processes have been completed.

In order to avert “energy crises”, SAFCEI submits that IRP1 can be amended (as has already happened) in order to accommodate any increased commitments to renewable energy and/or energy efficiency that may arise over the next year or two. No reason advanced by DoE for its inability to extend the final deadline for completing IRP2 has been found to be compelling and SAFCEI believes that the IRP2 process is of extreme importance and cannot be rushed through. SAFCEI would also like to point out that despite commitment from government that the public participation process for IRP2 would start in January 2010, the public process has been delayed 5 months and it seems unreasonable to expect that the public consultation must suffer because of government ineffectiveness.

We would also like to point out that at the energy caucus meeting, a number of issues were raised. As a representative of DoE, you promised to provide responses in writing by Wednesday 19th May 2010. It is now 25th May and no responses have been forthcoming. No explanation for the delay has been communicated and we must express extreme disappointment with this failure to adhere to timeframes on government’s part.

It is also of concern to read in the recent media that senior government officials are quoted as categorically committing South Africa to building future nuclear energy power plants. The implication of such statements is that the IRP2 consultation process is a farce, a public relations exercise and that the decisions have already been made. Such undermining of PAJA and other related laws makes a mockery of our democracy and we seek assurance that this is not the case.

The public consultation process put forward by DoE has a number of serious limitations. It presumes that all stakeholders have access to the internet, and are fluent in English. It also assumes that one or two adverts placed in mostly business press or Gauteng newspapers are sufficient to inform the nation and alert any potential interested and affected parties. SAFCEI does not feel that this is in any way adequate, and that in order to ensure that quality inputs are solicited from the communities of South Africa, an awareness campaign to alert the public about IRP2 should be conducted.

The views of interested and affected parties who may not be able to prepare written submissions will also need to be accommodated. (Promotion of Administrative Justice Act, 2000, Regulations on Fair Administrative Procedures, 2002, Chapter 1 section 5. See also section 3 of the Act)

We understand the budgetary constraints faced by Government but government has a duty to consult and in the case of energy and electricity planning, this is something that underpins and impacts on all livelihoods, could affect the quality of life for all citizens and cannot be reduced to a plan for supplying bulk electricity to industry.

We believe that a radio advertisement campaign, much less costly than TV, and conducted over a number of weeks at specific times in the consultative process would be useful, as would posters placed in local government offices, libraries and community spaces.

Given the accuracy of the saying “garbage in equals garbage out”, it seems that careful attention needs to be paid to the first phase of stakeholder consultation, discussion around the assumptions and parameters that inform the modeling. In a confusing array of emails, distributed by Eskom, on behalf of DoE, the first stage comment period has now been extended to the legal 30 days. While, we welcome DoE’s commitment to the letter of the law, we do not believe that this is sufficient.

The DoE has also suggested a process of a “stakeholder workshop”, where a limited elite of stakeholders (who can afford to travel to the venue and are able to produce ppt presentations) are given 15 minutes to make a few points. SAFCEI believes that this is totally inadequate and fails to provide space for dialogue and meaningful engagement.

We propose that the first stage comment period be extended to at least 60 days. During this time, DoE officials should make themselves available to attend civil society meetings when invited in order to explain the assumptions/parameters and enable those stakeholders interested in participating further to make informed inputs into this stage of the process.

Such meetings would necessarily take place where stakeholder groups are located. SAFCEI would therefore request that a government person familiar with the modeling attend a SAFCEI meeting in three provincial workshops. We would be happy for our constituency to combine with other civil society groupings that would also support such an approach. Furthermore, given the delay in government releasing the assumptions documents for comment, it seems that an unavoidable delay will take place over the World Cup period when most people’s attention will be focused away from electricity planning!

It is also important that government publicises, via its awareness campaign, the various methods of consultation that it will use to reach those without access to internet and those whose preferred language is not English.

Once the first phase of stakeholder inputs has taken place, there needs to be a transparent manner of responding to all the comments received. We suggest a comments and responses document is published (as takes place in other government processes) so that all stakeholders can see how their inputs have been considered and addressed. Such a document could be published within 30 days of the closing date for comments. This would be an important opportunity for government to both educate and empower citizens with deeper understanding of the intricacies and nuances of electricity planning, enabling them to make more substantial contributions to the decision-making process.

Once the modeling has been complete, the scenarios are then released for public comment. It would appear that a second round of consultative workshops would then be in order, further enhancing stakeholders’ ability to understand the rationale for the scenarios etc. These workshops would need to be attended by those people responsible for, and familiar with the detailed modeling, rather than government officials performing some sort of PR role.

Depending on the density and complexity of the scenarios, the comment period would be minimally 60 days but possibly extended to 90 on request.

The final comments and responses document would then be issued so that stakeholders could check how their inputs had been considered and addressed.

The IRP2 could then be finalized.

Another important point is the need for transparency in the decision-making. Currently, there appears to be an advisory committee assisting government with decision-making around IRP2. The process for the selection of such an advisory group is extremely opaque and the lack of transparency

leads to the fear that vested interests or a small group of like-minded individuals will have a disproportionate influence over our energy future. This is clearly inequitable.

SAFCEI therefore requests an explanation of how this group arose, its terms of reference, its constituents, and what steps are to be taken to address the transparency and governance issues that arise due to its existence.

Such a reference or advisory group should ensure that civil society is represented but it should also be made totally transparent. The meetings of such an advisory group should be open to observers, from broader civil society and from the press. In the age of high technology, such deliberations could be recorded and publicized through the web-site for those with access. Minutes of the meetings can be distributed to those without web-access.

Should government embark on a consultative process as outlined above, and assuming that government responses can take place within a 30-60 day period (the modeling and responses to inputs), the IRP2 might be finalized by early 2011 .

Given the importance of such a twenty year electricity plan, the current DoE process appears to undermine the value of public input, rendering it susceptible to legal challenge. Such an approach seems short-sighted and likely to result in a poor product. Committing to a meaningful public participation, as required by law, seems to justify a delay and it does not seem to be unreasonable to finalise the IRP2 in February 2011 instead of September 2010.

SAFCEI offers this input as part of a constructive engagement towards sustainable development, environmental justice and peace.

We look forward to your response,

Bishop Geoff Davies
Executive Director

Liz McDaid
Climate Change Programme Director

Southern African Faith Communities' Environment Institute