



1 November 2016

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Dear Minister

We understand that at its next meeting on Wednesday 2 November 2016 the Cabinet is to consider some aspects of the proposed nuclear power procurement process, including vesting Eskom with the authority to lead the process.

We write to ask that you decline to consider the matter and to make any substantive decisions about the future of nuclear energy procurement for the following reasons:

- 1 The Constitution requires that any public procurement “must...be in accordance with a system which is fair, equitable, transparent, competitive and cost-effective”, pursuant to section 217(1) of the Constitution.
- 2 There is enormous uncertainty about the integrity and governance of important public institutions at the moment, including various state-owned enterprises including Eskom. Amongst other things, there are serious allegations about ‘state capture’ of these institutions that, if true, would cast serious doubt on the integrity of any procurement decision.
- 3 There is also widespread support of the National Treasury, from across the country, to protect it from potential state capture by those with vested interests, including those entities such as the Gupta Family that may have a direct or indirect interest in the outcome of the nuclear energy procurement process.
- 4 To remove authority from the National Treasury and the relevant usual line ministries at this time would be very unwise.
- 5 Moreover, it is very far from clear whether South Africa either needs or can afford to procure nuclear energy. It is not clear on what basis nuclear energy is being procured, given that a great deal has changed since the original 2010 Integrated Resource Plan on which the cabinet purportedly relied in late December when apparently making an in-principle decision to procure nuclear power. Given how many factors have changed since 2010, such as the price of renewable energy and the reduced demand for electricity in the economy, it would be right, as the minister for science and technology was reported as accepting recently, that a new IRP be prepared and considered.

- 6 Finally, and perhaps even more importantly, there is confusion and opacity in relation to the funding of the procurement. National Treasury has repeatedly said that procurement should only proceed if the country can afford it. As far as the public is aware no affordability study has been completed – certainly not one that has been published. Recently, the government announced that Eskom would fund the procurement from its balance sheet at a time when its finances can best be described as parlous.
- 7 A decision to proceed with the procurement process, especially led by Eskom, could have disastrous consequences for the economy and for the poorest members of society who will feel the brunt of any negative consequences should, for example, South Africa be downgraded by the ratings agencies as a result of this decision.

In all of these circumstances, it would be irrational and unconstitutional to proceed with any substantive decisions about a nuclear procurement process and we call upon you, as a member of cabinet, to respect your responsibilities to the Constitution and the people of South Africa.

We make this submission on behalf of the Save South Africa campaign. Given its cross sectoral diversity, as well as the wide support that it has already attracted from across South Africa, we invite you to recognise the legitimacy of its call and to accept the responsibility that the constitution imposes upon the executive to “ensure accountability, responsiveness and openness”.

Yours sincerely,

Sipho Pityana
Convenor: Save South Africa Steering Committee