



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Private Bag X 447· PRETORIA ·0001· Environment House ·473 Steve Biko Road, Arcadia· PRETORIA

DEA Reference: 14/12/16/3/3/1/2459

Enquiries: Ms Samkelisiwe Dlamini

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Ms Prudence Khosa
Eskom Holdings SOC Limited
PO Box 3499
POLOKWANE
0700

Telephone Number: 015 299 0592
Email Address: Khosapt@eskom.co.za
PER E-MAIL / MAIL

Dear Ms Khosa

REFUSAL OF THE APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, ACT NO. 107 OF 1998, AS AMENDED: FOR THE PROPOSED DEVIATION OF AN EXISTING GILEAD POWERLINE AT ESKOM GILEAD SUBSTATION LOCATED WITHIN MOGALAKWENA LOCAL MUNICIPALITY, WATERBERG DISTRICT MUNICIPALITY IN LIMPOPO PROVINCE

With reference to the above application, please be advised that the Competent Authority has decided to refuse the application for Environmental Authorisation. The reasons for this refusal are contained in the Record of Refusal, of which a copy is attached hereto.

In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014, as amended (the EIA Regulations), you are instructed to notify all registered interested and affected parties, in writing and within fourteen (14) days of the date of the Record of Refusal, of the Competent Authority's decision as well as the provisions regarding the submission of appeals that are contained in the EIA Regulations.

In terms of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000), you are entitled to the right to fair, lawful and reasonable administrative action; and to written reasons for administrative action that affects you negatively. Further your attention is drawn to the provisions of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013) which stipulate that the Competent Authority should conduct itself in a responsible manner when collecting, processing, storing and sharing an individual or another entity's personal information by holding the Competent Authority accountable should the Competent Authority abuse or compromise your personal information in any way.

Your attention is drawn to Chapter 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) National Appeal Regulations published under Government Notice R993 in Government Gazette No. 38303 dated 08 December 2014 (National Appeal Regulations, 2014), which prescribes the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2014) with the letter of notification to interested and affected parties in this matter.

MS

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Competent Authority, whichever is applicable.

Appeals must be submitted in writing in the prescribed form to:

The Director: Appeals and Legal Review of this Department at the below mentioned addresses.

By email: appeals@dfre.gov.za;

By hand: Environment House
473 Steve Biko
Arcadia
Pretoria
0083; or

By post: Private Bag X447
Pretoria
0001

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at https://www.environment.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appeals@dfre.gov.za.

Yours faithfully



Mr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment
Date: 29/03/2022

cc:	Mrs Babalwa Fatyi	Myezo Environmental Management Services (Pty) Ltd	Email: babalwa@myezo.co.za
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Department
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Record of Refusal

In terms of Regulation 24(1)(b) of the Environmental Impact Assessment Regulations, 2014, as amended

The deviation of an existing Gilead powerline at Eskom Gilead substation located within Mogalakwena Local Municipality in Limpopo Province

Waterberg District Municipality

Application Register Number:	14/12/16/3/3/1/2459
Applicant:	<i>Eskom Holdings SOC Limited</i>
Location of activity:	<i>Farm Gillimberg 861LR Portion R/2 within Mogalakwena Local Municipality in Limpopo Province</i>

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Decision

The Competent Authority is satisfied, on the basis of information available to it that the applicant should not be authorised to undertake the activities specified below.

Details regarding the basis on which the Competent Authority reached this decision are set out in Annexure 1 to this Record of Refusal.

Activities refused

By virtue of the powers conferred on it by the National Environmental Management Act, Act No. 107 of 1998, as amended and the Environmental Impact Assessment Regulations, 2014, as amended, the Competent Authority hereby refuses the application for Environmental Authorisation to –

Eskom Holdings SOC Limited

with the following contact details –

Ms Prudence Khosa

Eskom Holdings SOC Limited

PO Box 3499

POLOKWANE

0700

Telephone Number: 015 299 0592

Email Address: Khosapt@eskom.co.za

not to undertake the following activities (hereafter referred to as "the activity"):

Activity number	Activity description
<p><u>Listing Notice 1, Item 11:</u></p> <p><i>The development of facilities or infrastructure for the transmission and distribution of electricity— (i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts</i></p>	<p>The proposed activities involve the construction of a 66 kV powerline, infrastructure for the transmission and distribution of electricity outside an urban area.</p>
<p><u>Listing Notice 1, Item 31:</u></p> <p><i>The decommissioning of existing facilities, structures or infrastructure for—</i></p> <p><i>(i) any development and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014</i></p> <p><i>(v) any activity regardless the time the activity was commenced with, where such activity:</i></p> <p><i>(a) is similarly listed to an activity in (i) or (ii) above; and</i></p> <p><i>(b) is still in operation or development is still in progress;</i></p>	<p>The proposed activities will involve the dismantling of an already existing and operational 66 kV powerline previously listed in Listing Notice 1 of 2014.</p>
<p><u>Listing Notice 3, Item 12:</u></p> <p>The clearance of an area of 300 square metres or more of indigenous vegetation</p> <p>e. Limpopo</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p>	<p>The project will involve the clearance of indigenous vegetation, including trees and shrubs, during the construction of the powerline.</p>

as described in the Basic Assessment Report (BAR) dated January 2022:

21 Digit SG Codes

TOLR0000000086100002

T	O	L	R	0	0	0	0	0	0	0	0	0	8	6	1	0	0	0	0	2
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Centre coordinates	Latitude	Longitude
	23°39'19,119"S	28°51'50,192"E
Coordinates		

A Endpoint	23°39'15,721"S	28°51'49,742"E
B Bend point	23°39'16,275"S	28°51'48,575"E
C Bend point	23°39'19,845"S	28°51'50,607"E
D Endpoint	23°39'18,483"S	28°51'54,237"E
E Line centre point	23°39'19,119"S	28°51'50,192"E
F Geographic Centre Point	23° 39'17,776"S	28° 51'51,415"E

- for the deviation of an existing Gilead powerline at Eskom Gilead substation located within Mogalakwena Local Municipality in Limpopo Province, hereafter referred to as "the property".

Technical details of the proposed facility:

Component	Description/ Dimensions
Location of the site	The site is approximately 3.5 km south of Ham No. 1 village, 3.3 km southeast of Lefanyane, approximately 4 km northwest of Hwibi Village; 7,15 km southeast of Bellevue Nature Reserve.
Preferred Site access	The site can be accessed via the N11 road

Legislative Requirements

Refusal of the application

1. The application for Environmental Authorisation is refused for the deviation of an existing Gilead powerline at Eskom Gilead substation located within Mogalakwena Local Municipality in Limpopo Province as described above.

Notification of refusal and right to appeal

2. The applicant must notify every registered interested and affected party, of the Competent Authority's decision, in writing and within 14 (fourteen) calendar days of the date of this record of refusal.
3. The notification referred to must –
 - 3.1. specify the date on which the record of refusal was issued;
 - 3.2. inform the interested and affected party of the appeal procedure provided for in the National Appeal Regulations, 2014;
 - 3.3. advise the interested and affected party that a copy of the record of refusal will be furnished on request; and,
 - 3.4. give the reasons of the Competent Authority for the decision.

Date of refusal of the application for Environmental Authorisation: 29/03/2022



Mr Sabelo Malaza

Chief Director: Integrated Environmental Authorisations

Department of Forestry, Fisheries and the Environment

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Annexure 1: Reasons for Decision

1. Information considered in making the decision

In reaching its decision, the Competent Authority took, *inter alia*, the following into consideration -

- a) The listed activities as applied for in the application form received on 16 November 2021
- b) The information contained in the Basic Assessment Report (BAR) received on 01 February 2022.
- c) The comments and inputs received from interested and affected parties (I&APs) including various Organs of State, *inter alia*: SAHRA as included in the BAR dated January 2022.
- d) The information contained in the specialist studies contained within the appendices of the BAR dated January 2022 and as appears below:

Title	Prepared by	Date
Biodiversity and Wetlands Impact Assessment	BioAssets CC	February 2021
Heritage Impact Assessment	Tsimba Archaeological Footprints (Pty) Ltd	February 2021

- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).

2. Key factors considered in making the decision

All information presented to the Competent Authority was taken into account in the Competent Authority's consideration of the application. A summary of the issues which, in the Competent Authority's view, were of the most significance is set out below.

- a) The information contained in the application form received on 16 November 2021; the final BAR dated January 2022.
- b) The requirements of the 2014 EIA Regulations, as amended.

3. Findings

After consideration of the information and factors listed above, the Competent Authority made the following findings -

- a) According to Regulation 40 (1) and (3) of the 2014 EAI Regulations, as amended
 - (1) The public participation process to which the—

- (a) basic assessment report and EMPr, and where applicable the closure plan, submitted in terms of Regulation 19

was subjected to give all potential or registered interested and affected parties, including the competent authority, a period of at least 30 days to submit comments on each of the basic assessment report, EMPr, scoping report and environmental impact assessment report, and where applicable the closure plan, as well as the report contemplated in Regulation 32, if such reports or plans are submitted at different times.

- (3) Potential or registered interested and affected parties, including the competent authority, may be provided with an opportunity to comment on reports and plans contemplated in subregulation (1) prior to submission of an application but must be provided with an opportunity to comment on such reports once an application has been submitted to the competent authority.

The EAP failed to submit the Draft BAR for the competent authority to comment on report as per Regulation 40 (1) & (3) and therefore the Final BAR did not meet the requirements as per Regulation 40 (1) and (3).

- b) The BAR does not meet the minimum requirements as per Appendix 1 of the 2014 EIA Regulation, as amended. The EAP failed to provide motivation for the need and desirability for the proposed development including the need and desirability of the activity in the context of the preferred location. Further there was no motivation for the preferred site, activity and technology alternative including the no-go alternatives. Therefore, the BAR in its current form is not adequate to make an informed decision on the application.

In view of the above, the Competent Authority is of the following opinion:

- i. The minimum requirements, specifically with regard to Regulation 40 and Appendix 1 of the EIA application, were not met.

Consequently, there is no sufficient, adequate and reliable basis upon which the statutory discretion of the Competent Authority can be exercised in favour of the applicant and therefore the application for Environmental Authorisation is refused.