

NERSA launches probe into Eskom over PPA impasse

According to the South African Wind Energy Association (SAWEA), the National Energy Regulator's electricity sub-committee has launched a formal investigation into Eskom's conduct after it filed a complaint regarding Eskom's failure to sign the Department of Energy's Power Purchase Agreements.



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"We have had confirmation from Nersa that an expedited investigation into whether Eskom is in contravention of its licence, has now commenced. We await the timeline associated with this process, which could culminate with a ruling by a Nersa tribunal. Based on previous communications with Nersa, it is likely that the process will be concluded within two weeks," explained Brenda Martin, SAWEA CEO.

SAWEA declared a dispute during October 2016, requesting Nersa to undertake an investigation into Eskom's continued unwillingness to honour the Power Purchase Agreements. In the event that Eskom is found to be guilty of failing to comply with its licence conditions, the industry association further requested that Nersa impose a penalty, being 10% of its annual turnover per day, commencing on the day of receipt of the notice of contravention. SAWEA has also confirmed that in subsequent communications with Nersa, the association extended the complaint to include consideration of budget quote escalation effects.

Hope remains for final closure

"We'd like to reiterate that our primary intention is to achieve financial closure of Power Purchase Agreements. It remains our hope that Eskom will comply with the legal framework for power purchase, so that penalties do not need to be imposed on Eskom," added Martin.

The South African Renewable Energy Council (SAREC) together with a number of individual independent power producers have all subsequently joined the complaint as interested and affected parties.

Representing the 37 independent power producers affected by the power purchase impasse, legal opinion was sought out by SAREC in January 2017. SAWEA is guided by the legal opinion that Eskom cannot sidestep binding determinations of the minister. As single buyer, the monopoly utility must abide by the results of such determinations, which naturally include the signing of duly procured power purchase agreements.

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