

## A Threat to Good Governance in South Africa

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In December, the South African Department of Energy (DoE) released two bills proposing to amend two acts of parliament governing the electricity sector and the energy sector regulator (which regulates and oversees the sector). There has not been a publically-accessible written explanation for why these two bills are necessary. However, examination of their provisions reveals that the proposed bills have the potential to impair governance within the energy sector, not improve it. The specific dangers are highlighted in the submissions to the DoE by an Electricity Governance Initiative (EGI) partner, the South African Faith Communities Environment Institute (SAFCEI). These two submissions (available for download below) provide comments on two bills: the Draft National Energy Regulator Amendment Bill and the Draft Electricity Regulation Second Amendment Bill. These bills can be viewed in their entirety [here](#) <sup>[1]</sup>.

Both of these bills expand the powers of the Minister of the Department of Energy. Under the new bills, the Minister will have the discretionary authority to determine if new energy generation is necessary, identify how they want to create that new generation (e.g. coal vs. solar), decide on the procurement process used to obtain that new generation, and even force the energy regulator to give a specific generator a license. Each of these changes would erode good governance in the energy sector. First, shifting the power to contract new energy generation to the Minister would give the DoE the authority to generate new energy even when it not called for in the long-term Integrated Resource Plan (South Africa's electricity plan for the next 20-25 years, developed through a long process including public consultation). This could result in the pursuit of increased generation instead of energy efficiency measures. It could also result in additional development of conventional, non-renewable energy development, as the Minister would be granted the authority to determine the type of generation.

Giving the Minister the power to select the procurement process or even the specific contracted group for generation would also erode the power of the regulator. A unilateral power procurement process increases the opportunity for corruption, and decreases opportunities for public participation and oversight. Such a limitation reduces accountability and public scrutiny of government decision-making processes. The SAFCEI submissions highlight the need to curtail non-transparent processes that create a risk of corruption. Such lack of openness creates public mistrust of government energy sector institutions.

The bills propose to increase the discretionary authority of the DoE, rather than specifically describing the limits of such authority and how such authority would be exercised in a publicly accountable manner.

The bill was drafted by DoE and will now be brought to parliament for deliberation. It is understood that public hearings will be held on the proposed legislation later in the year and the bills will be amended as per the usual parliamentary process. Should the bills be approved by parliament in their current form, decision making would be less transparent raising the risk of corruption. The deliberations of parliament would be a matter of public record.

In addition to these larger governance issues, SAFCEI's statements propose a number of specific changes in the bills that aim to reduce corruption, increase transparency, and create a more integrated planning process. So far, the submission has been well received. The comments were acknowledged as useful by the City of Cape Town, which then consulted these submissions to draft their own submission to the DoE. The SAFCEI's submissions can be downloaded here - <http://electricitygovernance.wri.org/files/egi/SAFCEIsubmission-1>:

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