



NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

**NEDLAC CERTIFICATE
IN RESPECT OF THE NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA
SECTION 77 1(B) NOTICE ON ESKOM, INDEPENDENT POWER PRODUCERS AND THE
DEFENCE OF THE RIGHT TO STRIKE**

1. INTRODUCTION

- 1.1. NEDLAC received a notice, dated 04 June 2019, in terms of Section 77 (1) (b) of the Labour Relations Act 66 of 1995, from the National Union of Metalworkers of South Africa (NUMSA).
- 1.2. The notice (attached) outlined Applicant's demands in respect of Eskom, Independent Power Producers (IPPs) and the Defence of the right to strike.
- 1.3. It cited the following as its Respondents:
 - 1.3.1. Ministry of Public Enterprises
 - 1.3.2. Ministry of Mineral Resources and Energy
 - 1.3.3. Ministry of Employment and Labour
 - 1.3.4. Ministry of Justice and Correctional Services
 - 1.3.5. Eskom

2. PROCESS AT NEDLAC

2.1. The Section 77 Standing Committee convened a meeting with the Applicant on 20 June 2019. At the meeting, it was agreed that the Applicant would revise its notice and clarify its demands to reflect a socio-economic case.

2.2. The Secretariat received a revised notice on 04 July 2019.

2.3. A Standing Committee plenary meeting with the Applicant and Respondents was subsequently convened on 18 July 2019.

2.3.1. Applicant outlined its demands as per its application and further emphasised the following:

2.3.1.1. The unbundling of Eskom must be halted and a proper consultation process with Labour must be convened through an institution such as Nedlac.

2.3.1.2. Eskom must own the IPPs, however, the renewable sector should be socially owned.

2.3.2. Respondents stated:

2.3.2.1. They were committed to engage with NUMSA on some of the issues contained in its Section 77 application, such as decommissioning of Eskom's plants, plan to preserve jobs and unbundling of Eskom of Eskom. However the unbundling process could not be stopped.

2.3.2.2. Engagement process on the Integrated Resource Plan (IRP) and related issues were underway at Nedlac.

2.3.2.3. It disagreed with the following demands:

(a) Commissioning research on the effect of IRP 2010 and the proposed IRP 2018: A process had already

been agreed at Nedlac in relation to the phase in which research would be commissioned.

- (b) Commissioning research regarding feasibility for Eskom to own renewable energy projects: Various projects were already owned by Eskom. It was feasible for Eskom to own renewable energy project; however funding was a challenge currently. A business case would be developed at a later stage in this regard.
- (c) The cancellation of contracts as well as Eskom's commitment of not issuing new contracts for renewable projects was not possible.
- (d) Instituting a commission of enquiry into procurement processing relating to IPPs was also not possible as the Respondents had no authority on this matter, only the President had authority to institute a commission of enquiry.
- (e) Removing sections 8(b) and 19 of the Labour Relations Amendment Act (LRAA).

2.3.3. The Applicant stated that it maintained its demands and the Respondents should propose ways to address them.

2.3.4. The Standing Committee deliberated on the issues raised by both Applicant and Respondents and agreed that there were disagreements between the parties. Therefore the issues could not be resolved.

DECLARATION

Given these circumstances, the Standing Committee agreed that the issues raised by NUMSA could not be resolved. Therefore on 18 July 2019 the Standing Committee deemed this Section 77 (1) (b) Notice by NUMSA as having been considered.

Signed at Rosebank on 25 day of July 2019.

M 25/07/19
TEBOHO THEJANE
ACTING EXECUTIVE DIRECTOR