

19 March 2021

Attention: Mr Nhlanhla Gumede
Regulator Member for Electricity
nhlanhla.gumede@nersa.org.za

National Energy Regulator of SA
Kulawula House
526 Madiba Street
Arcadia
Pretoria
0083

Cc: Mr Eleazer Dlamini
publichearings@nersa.org.za
NERSA

RE: ELECTRIC DIVISION STRATEGIC PLANNING PUBLIC PARTICIPATION TIMEFRAME

1. The Organisation Undoing Tax Abuse (OUTA) is a non-profit company incorporated in terms of the Companies Act and is a public benefit organisation in terms of the Income Tax Act. OUTA is funded by ordinary South Africans, as well as small- and medium-sized local businesses who support its civil activism. The funders support OUTA's vision of an engaged and empowered civil society that ensures the responsible use of tax revenues throughout all levels of government. OUTA's core aim is to ensure that tax revenue is expended in a frugal and lawful manner, and counteract the rising tide of the inappropriate use of state authority and power. OUTA's central aim is to promote public accountability, transparency and good public governance. OUTA thus investigates and challenges alleged corruption and other acts of poor governance.
2. The Promotion of Administrative Justice Act provides a legal framework governing Government's responsibilities with regard to administrative action. This right to be heard is a key part of our Constitution.

3. According to NERSA's "ELR DIVISION STAKEHOLDER CONSULTATION STRATEGIC PLANNING WORKSHOP DISCUSSION PAPER", this paper was published on 10 March 2021, inviting stakeholders to participate in the public participation process and to make submissions by 20 March 2021, giving the public a mere eight working days to comment. This is completely inadequate.
4. What makes things worse is that NERSA issued an email only on 18 March asking for written comments by 20 March. This is how this information reached OUTA, which has participated in various NERSA public engagements in the past. Given that 20 March is a Saturday, this is one working day to respond.
5. We also do not believe that the call for people to attend and present at a workshop to be held next week is sufficient. Given that this weekend is a long weekend, this is an effective one day's notice.
6. OUTA appreciates NERSA's intention in engaging its stakeholders in such an important matter as the substance of the discussions of widespread public interest. But for NERSA to condense the future of South Africa's electricity system to eight questions (not seven as stated in the email) is highly questionable.
7. OUTA calls on NERSA to recall its workshop invitation, to do its homework and then to publish its own position paper for consultation. We need to see the rationale for NERSA's thinking in order to participate constructively.
8. The attempt to reduce public consultation to one day must be rejected with the contempt it deserves.
9. OUTA hereby calls for NERSA to consider withdrawing this process in its entirety until NERSA can publish a paper of more substance that can stimulate efficient public engagement that can assist with informed decision-making. The paper should then be released with a comment period of at least 30 days after which public hearings should be held.

10. NERSA will not win the confidence of the public as the energy regulator if it continues with processes such as this that comes across as a mere tick-box exercise.

11. OUTA cannot participate in a process which it appears has been designed to prevent any meaningful consultation.

Yours sincerely

