cooperative governance Department: Cooperative Governance REPUBLIC OF SOUTH AFRICA	**SPECIAL HEADS OF CENTRES FORUM MEETING CONSULTATIVE SESSION ON THE MAJOR ELECTRICITY SUPPLY CONSTRAINTS (NATIONAL ELECTRICITY CRISIS)** Date: 01 February 2023 Time: 09:00 Venue: Ms Teams

	• That all the above-mentioned measures can be addressed through existing legislation and working with stakeholders in the respective work streams of the NECOM to improve coordination and cooperation. In addition the forum noted considering a national state of disaster would also put additional responsibilities on managing fraud and corruption issues, giving the potential for these to increase in that period, and there is also an element around the measures required to secure our infrastructure, both all generation transmission and distribution around economic crimes, we've seen the with the recent videos of the extent of economic crimes that happens against distribution, transmission and generation infrastructure. But I think that is a nutshell from the scrum side. Thank you, chair.
3.	**Discussions/Comments/Questions** In terms of accelerating the laid out plans from the presentations, a question was raised to whether a state of disaster is needed or not. It was then requested that the legal work stream that is operating in NECOM to then do the work that they need to do in order to provide the NDMC with clarity as to what are the exact regulatory issues that cannot be dealt with within the existing legislation. Because from the presentations it was clear that that is in the minority and that even in those cases it seems that it can be dealt with. So the question in short would be can this issue be accelerated using the state of disaster? What would those measures be and are we clear that those measures cannot be achieved, you know, within the existing regulatory framework? With regards to capacity of local municipalities to deal with even the lower levels of load shedding, Eskom is trying to work with them. But there is a requirement for a dedicated effort to assist municipalities which the workstream 9 will focus on. In terms of the issues around security, there ae NATJOINTS that can work with Eskom to deal with these issues. NATJOINTS need to come up with some consolidated action plan in terms of how best they can step up on the issues of security. With regards to accelerating the plans, DPE is working on accelerating the plan through ensuring that there is speedy decision making that is taking place at an intergovernmental level and also at Eskom level intervention is there to make sure that if decisions need to be made, they should be made timeously and not to be able to stick to the predetermined dates, but to try and compress, the timeframe of actually ensuring that those decisions that needs to be made are done timeously.
4.	**FURTHER BUSINESS AND CLOSURE**
5.1	• The chairperson thanks all presenters and requested that all presentations be sent to the NDMC, further noting that all comments and questions were noted. • The chairperson then thanked all that was in attendance and for all inputs given and requested that all that has been discussed remain in the meeting until the NDMC applies their mind on the position to take. The meeting was adjourned.

APPROVAL OF THE MINUTES OF THE SPECIAL HoCeF MEETING DATED 01 FEBRUARY 2023
Minutes: Approved / Not Approved **Chairperson:** _____ **Date:** _____ Dr Elias Sithole: Head: National Disaster Management Centre (NDMC)

cooperative governance Department: Cooperative Governance REPUBLIC OF SOUTH AFRICA	**SPECIAL HEADS OF CENTRES FORUM MEETING CONSULTATIVE SESSION ON THE MAJOR ELECTRICITY SUPPLY CONSTRAINTS (NATIONAL ELECTRICITY CRISIS)** Date: 01 February 2023 Time: 09:00 Venue: Ms Teams

No.	Item
1.	**PROCEDURAL MATTERS**
1.1	**Opening and Welcome** • The Chairperson and Head: National Disaster Management Centre, Dr Elias Sithole welcomed all present and declared the meeting opened at 14:04. In his opening remarks he indicated that this was a special Heads of Centres meeting, with special invites extended to relevant DGs and DDGs. The chairperson also noted that there will also be a special NDMAF later on in the day comprising of all disaster management relevant stakeholders. • The purpose of the meeting is to discuss the current energy crisis in the country. The Department of Public Enterprises has been invited along with Eskom, DPME and members of the National Energy Crisis Committee to give presentations in these two special meetings.
1.2	**Attendance and Apologies** Attendance Register is attached as Annexure 1. **Apologies** 1. Mr de Ruiter: CEO Eskom - represented. 2. Mr Robert Nkuna: DG-DPME – represented. 3. Mr Mabandla: HOC: Eastern Cape – due to cabinet meeting 4. Mr Kiba: HOC: Gauteng PDMC
1.3	Approval of the Agenda **Resolution:** That the Agenda be adopted without amendments. Mover: Mr J Dyssel Seconder: Mr Tebogo Gaolaolwe and Ms A Bruwer
2.	**MATTERS FOR CONSIDERATION**
2.1	**Presentation from Department of Public Enterprises: Plans to mitigate the current Energy Crisis DPE – by DG. Jacky Molisane** The presentation by the DPE highlighted the following: • Eskom legislative mandate and provided a list of exemptions needed to accelerate implementation of the plan. • Eskom Action Lab is working on key issues such as emergency procurement, incentivising rooftop solar, enabling procurement and maintenance, implementing demand side measures, and having a 'one-stop-shop' to resolve bottlenecks in delivery. • The DPE like Eskom indicated that all these measures can be addressed through existing legislation and working with stakeholders in the respective work streams of the NECOM to improve coordination and cooperation. The forum also noted that a declaration of a state of disaster can really only be done where the current legislation does not provide for any exemption or approvals, but as has been noted from the issues that are requiring exemptions, there are in terms of the current legislation, but if there

	is not current legislation that covers what you need to do, that is when, then you can declare state of a disaster and we need to identify these meeting. What are the things that need to be done that are not provided in terms of the existing legislation and those are the basis under which you can then declare state of disaster.
2.2	**Presentation from NECOM – Overview of the Energy Action Plan by Mr Saul Musker** The presentation highlighted the following: • National Energy Plan including the roadmap to end severe electricity supply constraint. • Nine workstreams have been established to ensure delivery against the plan, comprising key officials from various government departments and leading experts in academia, business & society. • Stated that good progress has been made in several areas which will result in new capacity being delivered over the next 12 – 18 months which, in 2023 focussed on 8822MW of electricity from initiatives such as imports, rooftop solar, demand response, private sector generation surplus, IPPs, etc. This was in addition to the expected 6000MW expected from improved performance of existing power stations. • Work already underway to streamlining several regulatory processes across departments and indicated that the timeframes can be further reduced through cooperation and engagement in the NECOM using existing legislative measures. Emphasis was also placed on the need to accelerate implementation on an action plan and move with speed in implementing these initiatives. However, the question was raised again to say can the measures that are necessary to respond to the energy crisis be taken under existing legislation and is it simply a case of departments or ministers utilizing the tools available to them, whether it is granting Eskom exemptions from the new generation regulations or from the PFMA or providing exemptions for energy projects from a range of other approvals. What can be done within the existing framework and what would require an alternative framework.
2.3	**Presentation by Eskom: Energy Crisis – Mr Thomas Conradie** The presentation highlighted the following: • That 25 560 MW was available and that the forecast demand was 27 714 MW. • The unplanned outages totalled 17 734MW with 4654MW on planned outages. • There are three levers to address the severe electricity supply constraint being, *EAF recovery* (with 10 focus areas) that can have a potential 1 862 MW impact; *Additional capacity* through various imports, emergency procurement and land leasing that can have a potential impact of 2 900 MW; and *Government Enablers*, which is external to Eskom and can assist the recovery plan.

cooperative governance Department: Cooperative Governance REPUBLIC OF SOUTH AFRICA	**SPECIAL HEADS OF CENTRES FORUM MEETING** **CONSULTATIVE SESSION ON THE MAJOR ELECTRICITY SUPPLY CONSTRAINTS (NATIONAL ELECTRICITY CRISIS)** Date: 01 February 2023 Time: 09:00 Venue: Ms Teams

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"326FA20"

03 February 2022

Dr Elias Sithole

Deputy-Director General:

National Disaster Management Centre (NDMC): Head of Centre

Riverside Office Park

Letaba House, 2nd Floor

1303 Heuwel Avenue

Centurion

By email: EliasS@ndmc.gov.za;

cc: MeganL@ndmc.gov.za; MatieL@ndmc.gov.za

Dear Dr Sithole

ENERGY CRISIS: CLASSIFICATION OF A NATIONAL STATE OF DISASTER

1. INTRODUCTION:

Agri SA is a non-profit organisation committed to developing a stable, profitable agricultural environment in South Africa. We are a federation of agricultural organisations consisting of 9 provincial and 26 commodity organisations as well as 58 corporate organisations within the agricultural value chain. Through our affiliates, we represent a diverse grouping of individual farmers (emerging, smallholder and commercial) regardless of their gender, colour or creed. Agri SA is committed to the sustainable development of agriculture in South Africa.

The purpose of this report is to indicate the impact of the current energy crisis on the agriculture sector, the proposed interventions and whether or not Agri SA and its members support the classification of a national state of disaster.

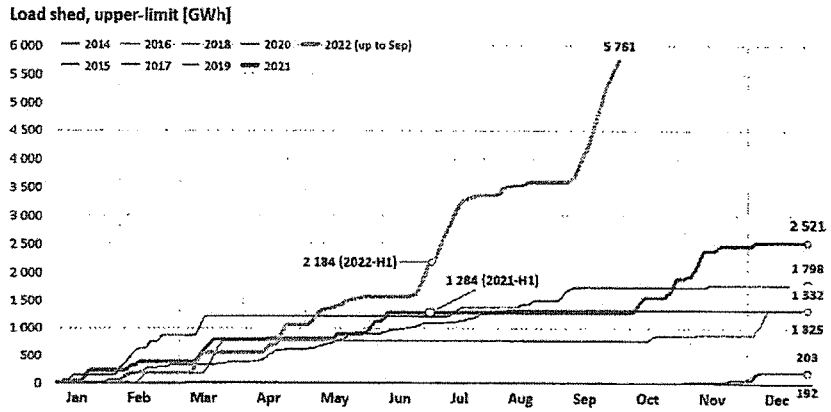
2. LOAD SHEDDING'S DEVASTATING IMPACT ON SOUTH AFRICA'S AGRICULTURAL INDUSTRY:

The current load-shedding crisis is arguably disastrous for the agriculture sector and the economy at large. The impact of load-shedding on the sector extends throughout the agriculture value chain (primary production, agro-processing to retail) leaving a huge financial impact.

The agricultural industry is a vital component of the country's economy and food security, and the effects of the current power outages on this sector are far-reaching. According to research conducted by Nova Economics on behalf of Eskom, it is estimated that a 1% reduction in electricity sales due to load shedding corresponds to a 0.4% decrease in South Africa's GDP growth. The cost of load shedding per day to the South African economy is as follows:

- Stage 1 (or load shedding 1 000MW): R235.5 million
- Stage 2 (2 000MW): R471.3 million
- Stage 3 (3 000MW): R706.7 million
- Stage 4 (4 000MW): R942.4 million

The report revealed that the agricultural sector was most adversely affected by load shedding due to its heavy dependence on electricity for irrigation and refrigeration. Agriculture lost 2.77%, 5.35% and 4.38% of its attribution to GDP during 2007/8, 2013/15 and 2018/19 respectively. The report also reveals the cost of load shedding for agriculture, which is R4,01 per kWh in terms of 2020 values. Having said that, load shedding escalated even more since 2019. A record of 5761 GWh of load shedding was recorded last year up until the end of September, which is more than doubled the year prior.



Source: CSIR

The agriculture sector lost an estimated R23 billion in just 9 months last year. To prevent further damage to the agriculture sector, immediate access to electricity is needed over the next few weeks. Irrigation is a crucial process in agriculture as it enables farmers to grow crops, especially in inadequate rainfall areas. Without irrigation, farmers would be dependent on rainfall to water their crops, making them vulnerable to load shedding and causing damage to irrigation systems when the electricity supply is unreliable. This already has a loss of income for farmers due to crop failure and a reduction in agricultural productivity.

Sources:

Nova Economics, Eskom, CSIR and Agri SA Research

2.1 IMPACT OF ENERGY CRISIS ON FARMING OPERATIONS:

Irrigation & water treatment

- Have to pump water during Ruraflex hours at higher costs due to time lost.
- Forced to irrigate at the wrong time e.g., in the heat of the day.
- Wastewater cannot be pumped out of warehouses causing decay/rotting and bad smells.
    - Causes unhygienic & non-sterile ponds.
- Municipal wastewater can't be optimally treated via specific processes.
    - This can create discomfort for the Water and Sanitation Department
- Pumps not being able to fill troughs and causing centre pivots not to work.
- With four pumps at 400kva capable of 6mm/day irrigation we cannot afford any downtime due to our evaporation rates being 10 times plus.
- All residents of the farm have no access to fresh water or sanitation as systems relying on electricity are down.
- Constant replanning of irrigation scheduling
    - Changing timers on pumps to accommodate this.
    - Every day is different, also the management time to explain to 10 irrigation staff that every day is different.
    - Time managing the staff to ensure it is done correctly.
    - Yield loss if not driving around restarting pumps.
    - Borehole pumps cannot be activated.

Assets

- Necessary repairs to equipment cannot be done during the power failures.
- Welders, grinders & other electrical machinery cannot be operated.
- Critical Maintenance requiring power tools and welding.

- Delays with repairs of vehicles.
- Office work is severely affected as we cannot access the internet; computers are not working.
- Hardware damage such as the burning of electronic components such as PC boards, electric motors, pumps and computers that will require repairs or replacement.
- Sensitive electronic equipment gets damaged.
    - High-capacity chillers, compressors and fans at risk.
- The surges can cause damage to our cold room compressors.
    - Refrigeration and cooling of products in warehouses are compromised.
    - Damage to the vaccine in the fridge, take 2.5 hours temperature up to rise to 16.6 Celsius. while vaccines should stay below 7 Celsius.
    - Temperature breaks in phytosanitary shipment protocols and products disqualified for export.
- Huge capital and running costs for those who have generators.
- Constantly have to replace lots of batteries which is not an environmentally friendly product – hence more waste.
- Vacuum drum filters will have to be restarted, which besides downtime in production, will cost additionally.
- Humidifying equipment breaks down.
- Impact of variable voltage on all appliances-the effect is massive.

Agri Tourism and Fuel

Negative impact on:

- Tasting rooms
- Restaurants
- Accommodation
- Several other revenue streams
- Guests often have no power in cottages and cancel bookings
- Fuel issuing
- Diesel cannot be pumped if there is no electricity
- Need to fill tractors
- Several entities have made large capital investments in generators and with the cost of diesel, this is a major concern in the industry.

Safety

- Safety is compromised as criminals know when security systems weaken due to outages.
- Cannot reach security companies.
- Experience an increase in theft.
- Electric fence and alarm systems pack up.
- Safety concerns for rural houses.
- Response time from the security company is longer as communications are disrupted.
- Clients of fencing businesses with security gates and fences are affected.
- Although gate motors use batteries to operate, load shedding has a negative influence on battery life.
- Must load airtime on these security systems.

Operations

- All communications down
    - Internet constantly down
    - Mobile communications down due to signal loss during load shedding
- Cannot guarantee delivery on time.
- Labour relations become strained as we are unable to pay workers who don't work during load shedding.
- Packhouses are extremely labour-intensive and literally thousands of workers are idle when electricity is interrupted.
- Impact on staff that must get up very early or get home late from their duties such as milking. No lights, stove to cook on or other amenities that low-income people depend on.
- The macro level impact on sentiment, translating to increased costs associated with sentiment-driven variables is incalculable.
- Staff morale suffers if they are constantly without power.
- Transport contractors' schedules also change daily.

2.2 IMPACT OF LOAD SHEDDING ON AGRICULTURAL COMMODITIES

Crops

- Farmers are growing fungi that control pests and crop diseases as biological crop protection products. A break in the electricity supply upsets the autoclaves sterilizing the fungus growing medium and shuts down the sterile "clean rooms" used for inoculating the fungi onto the growing medium.

- Irrigation pumps are constantly switching off therefore farmers are losing yields on their crops and must constantly go and switch pumps on again. There is a loss of water in these cases as the water runs out of the irrigation system when the pumps go off.
- Quality of crop is determined by irrigation and curing. Any load shedding will have a direct impact on the quality of the crop and therefore the market of the product successfully.
- Crop damage occurs as a result of interrupted irrigation schedules.
- Disruption to feed milling and mixing results in lower milk production.
- In that farmers cannot complete their irrigation cycles.
- Result in stressed crops and reduced yields.
- Inability to spray crops for critical pests and diseases due to lack of availability of water.

Poultry

- Cannot slaughter/process any chickens.
- Need to cool adult broilers with roof irrigation.
- Poultry feeding affected.
- Farm health is in jeopardy as producers cannot wash pens.
- Loss of egg production due to disruptions in the lighting program.
- Brooding of broiler chicks.
- Heating and cooling of chickens interrupted.
- Product processing delays.

Table grapes

- December to March is peak season in the table grape industry:
    - All packhouses and cold stores run on electricity.
    - The product is highly perishable, and maintenance of the cold chain and a cold temperature regime are legal requirements and form part of international bilateral phytosanitary agreements
- Any pumping of water or usage of electrical appliances and lighting vital.
- Safety issues e.g., chemical storage facilities.
- Not able to irrigate especially cooldown pulses in heatwave conditions
    - Could lose fruit due to sunburn.
- Could miss shipping schedules
    - This can have a massive economic impact on the economy
- 90% of all table grapes are exported.

- A specific cold regime is a compulsory phytosanitary requirement per an international bilateral agreement.
- Any break in temperature has huge implications and disqualifies a consignment for export.
- The gross value at immediate risk is R6 billion at the farm level.

Forestry and Sugarcane

- It is affecting workshop projects.
- Office admin.
- All Sawmilling practices halted.
- Water pumps for plant nursery shut down.
- Inability to irrigate at critical times
  - Especially trying to counter the carry-over effects of the drought on tree phenology
- Electricity imperative to centre pivot irrigation of sugar cane and cash crops:
  - Irrigation of sugarcane is curtailed for the period that the power is off and often pumps must be manually started so if the load shedding is at night there will be a loss of that night's irrigation.
- Cause crushing of sugarcane.

Livestock

- Cannot pump drink water for cattle.
- Electric fences to keep dangerous animals in, are deactivated during load shedding which poses possibilities of danger to humans and other animals as well as loss of dangerous animals.
- Feed mixing & milling messed up.
- Food processing specifically meat, which is a perishable product:
  - With load shedding, the use of generators is very expensive at the current fuel prices
  - Some simply cannot afford to run the whole operation on our generators
  - Some are forced to close parts of our business.
- Semen needs to be refrigerated at 17 Degrees otherwise producers can throw the semen away. It cost R92 per dose.
- Crushes by sow as a result that they seek out heat and lie against mothers
  - Loss of growth cannot be made up as a result of empty feeders
  - Auger feed lines cannot run
- When cattle notice the electric fence is not working, they cause havoc in the other fields when they get out.

Dairy and Crocodile farming

- No milking of cows.
- No cooling milk.
- No processing of milk.
- No monitoring of milk tanks.
- Pastures facing severe dry weather do not grow and the knock-on effect on milk production is huge
- Pumping water to fill ponds (10000m^3/daylight day).
- Use boiler for heating hot houses.
- Food Manufacturing.
- Cleaning and disinfection.
- Facilities Freezer rooms for 300 tons of food storage cannot operate effectively for example.

Banana

- Banana packing stalls.
- Can't charge batteries for bush cutters.
- Ripening of bananas is affected as fridges need to be opened so they don't cook and brought back down to temp taking longer to ripen.
- Lost bananas because there is no lighting in the pack shed and the quality of bananas is affected.
- Overcompensation for banana quality throwing away fruit because of poor visuals in a dark shed.

Macadamia and Vegetables

- Use of water is limited as the borehole is not able to run, therefore:
    - Cannot spray my Macadamia orchards
    - Without being sprayed we will lose both production and quality
- Peak season processing for Macadamia crop from Feb to July and not being able to dehusk and dry crop efficiently because of load shedding and potential damage/loss to stored product.
- Downtime with staff not being able to process nuts due to load shedding resulting in fewer nuts processed in a day impacted by the accumulation of product due to reduced processing time in a day.
- Pumping water to fill ponds (10000m^3/daylight day).
- Use boiler for heating hot houses.
- Food Manufacturing.
- Cleaning and disinfection.
- Facilities Freezer rooms for 300 tons of food storage cannot operate effectively for example.

Tobacco

- Curing
    - Process stops due to load shedding for 3-4 hours.
    - Likely loss of tobacco in one curer is +- R40 000.
    - Average farmer cures +-150 curers of tobacco per season.
- Irrigation
    - All tobacco is planted under irrigation.
    - With this heat wave and low rainfall, irrigation is done 24/7.
- Load shedding directly impacts the quality of tobacco.
- Leads to drying out of tobacco and handling damages.

Wine

- Juice in the midst of the fermentation process needs to be cooled – if not, the wine will be degraded to the lowest class (distilling wine) and losing value.
- Shipment of exports delayed.
- Interruption of irrigation cycles of vineyards.
    - Critical during the said summer months and can easily lead to major losses due to high summer temperatures.
- Interruption of pesticide spraying schedule and, on-premise workshop downtime.
- Crushing of grapes.
- All cellar work (flow of activities in a cellar is critical and continuous electrical supply is needed), BUT once interrupted it can have a major impact on the quality of the wine and ultimately a loss in tenders/ orders/contractual agreements, with the largest risk of selling the wine at lower price points/income levels as budgeted –crushing, pumping, cooling, blending, bottling and labelling and not to mention key administrative/office activities.
- Without electricity, cellars can be quite dark inside and hamper operational activities, due to health-and-safety challenges.
- Processing of wine affected.
- Cooling of wine tanks and bottled.
- Critical maintenance and preparation of cellars before the intake is hampered and whilst off-line the wage bill is still running with glycol-cooling the load shedding creates major problems.
- Intake of grapes, controlling of fermentation, loading of containers and bottling of wine.
- Once the cooling of wine is interrupted, wines can start fermenting and lead to quality problems
    - Ultimately a loss in grading and a lower income realisation, as fermentation control is a major problem.

- In the larger plants electrical forklifts must be charged storage rooms.
- The automated cooling system does not switch on again after the power has been restored.
- A water tower and chiller are very sensitive to electrical spikes and automatically shuts down to protect themselves.
- Bottling of wine affected.
- Storing of grape juice to remain below 0°.
- Loss of productivity hours, whilst the wage bill is still running.
- Wine tanks, which are full of wine, spill over when the temperature rises. loss of not only the product but also loss of quality when the temperature rises and falls. During harvesting – If cooling is not active all the time during fermentation, this can lead to a major loss of quality product.
- Unfortified products, once cooled down, have a great tendency to be severely damaged. Yes, need to reload the filters and this adds to the downtime also, additional wastage of wine, with half-loaded containers having a diminishing effect on wine quality."
- The wine industry is operating with a 'living entity/fermented grapes and ultimately the different stages of wine and can't tolerate/absorb fluctuations in electricity supply and with Stages 2/3 it is extremely risky to deliver a quality product.
- Wine Tourism is the heartbeat of all rural areas in the wine industry and load shedding/interrupted electricity means this critical part of the business takes a real knock in revenue
    - Payments can also not be processed at the Point-of-Sale.
- Wine quality is depending on the cooling ability and also the continuous process
    - Loadshedding has an extremely negative impact on the process.

Perishable produce

- Cannot pack or cool fruit during load shedding.
- Pack house cannot operate, and our cold rooms switch off which breaks the cold chain management and increases the risk of us losing our crop.
- General workshop activities cannot be completed with regards to repairs and maintenance to our equipment and affects the whole farm.
- Packing of fruit in 3 packhouses (one-night shift) , as well as cold rooms that will be affected and the quality of fruit, will be affected due to cold rooms that will be off during load shedding.
- Packing and cooling of fruit for export, cannot load containers as scheduled.
- Packing of plums and cooling thereof after packing.

- Cannot cool or pack fruit without electricity. Cannot irrigate orchard. Telephone, e-mail etc does not work without electricity.
- Fruit harvest will be affected due to packing and cooling processes that will be delayed and can affect the quality and pricing due to the delay.
- During packing operations of stone fruit, the interruptions of the cold chain could result in major losses of quality and result of that fruit not exported with loss of valuta earnings for RSA.
- Damage to fruit quality due to the cold chain being broken (a) Huge losses for special markets which require cold treatment of fruit – specific time at a specific temperature. Won't be able to export to these markets (China, Mexico, Taiwan, USA, Nigeria) (b) Financial claims due to quality issues when the cold chain was broken.
- Fruit cannot be cooled down and packed in time (stone fruit and summer pears) which will cause these fruits to miss scheduled vessel departure dates – risk on quality, logistical and infrastructure capacity bottlenecks that have far-reaching implications in the market.
- Cannot irrigate fruit orchards without electricity.
- We deal with perishable products and time is of the essence. We need to work to market demand and with load shedding, we cannot finish packing and lose out financially as we miss certain gaps in the market.
- The citrus industry (an R18bil export industry) relies on our products to control several important quarantine pests. A shortage of the products could prevent the export of citrus to the EU.
- We are not packing summer pears.
- Can't be exported on time due to fruit temperatures not reaching their export-specified temperature on time.
- Crucial for summer pears to pack fora lines of the export market.
- Negative cold chain operations which affect the quality and shelf life as well as load-out protocol.
- Must pack stone fruit as soon as possible after being picked and start with cooling protocols.
- Pears getting too ripe for export if not packed/cooled. Stone fruit getting too ripe for export if not packed/cooled.
- Fruit size affected due to poor irrigation schedule.
- Pre-cooling/packing/re-cooling will be delayed and have a negative effect on quality and pricing.
- Refrigeration and avocado packhouse.
- Will have to work extra shifts to pack fruit because of time lost during load shedding.

Unfortunately, farmers are price takers and the disruption in the supply versus demand of agricultural produce will result in price increases and food inflation, something the South African economy and consumers can ill-afford.

3 ENGAGEMENTS WITH ESKOM AND PRACTICAL SOLUTIONS

Agri SA has been in continuous contact with senior officials at Eskom to try and limit the impact of load shedding on the sector and to provide practical solutions. Feedback from Eskom confirmed that load shedding will be with us for the unforeseeable future. A difficult year lies ahead as stage 4 will be implemented more frequently as a result of unforeseen breakages at various plants and planned maintenance work.

Agri SA has identified five practical solutions to mitigate the impact of load shedding in the agriculture sector:

Short-Term	Medium-Term
Lobby for the agricultural sector and associated value chain to be declared an essential service.	Access to the grid: Using microgrid & SSEG
Lobby for agriculture to be partially exempted from higher stages of load-shedding (Note: not full exclusion). Maximum stage 4	Lobby for the finalization of payback tariffs for electricity being put back into the grid.
Higher Rebates on diesel/petrol used for electricity generation (the current schedule does allow for rebates for electricity generation)	Streamed line application process – cutting red tape
Amendment of current tariff structure to reduce the cost of electricity used in peak times.	Incentives/subsidies and/or finance
Trade load-shedding schedules using a local feasibility study. A tiered approach can be taken, using red, orange, and green to identify critical areas.	

These solutions have been tabled with Eskom and the Department of Agriculture, Rural Development and Land Affairs' workstreams. Agri SA will explore all avenues to ensure that these solutions are tabled with government.

After our own investigation, the following can be suggested:

Declaring a state of disaster due to an energy crisis in South Africa **may** have the following advantages:

1. **Access to emergency funding:** Declaring a state of disaster may unlock emergency funding that can be used to address the energy crisis and its impacts on the community.
2. **Priority status:** The declaration may give the energy crisis priority status and expedite the decision-making and implementation process for solutions.

3. **Coordinated response:** Declaring a disaster enables government agencies, local communities, and other stakeholders to coordinate their response more effectively.
4. **Mobilisation and reprioritisation of resources:** The declaration may mobilise and reprioritise resources from other regions and sector budgets to help address the crisis. This also include the mobilisation of resources by volunteer organizations, private sector companies, and other nations.
5. **Increased public awareness:** The declaration may raise public awareness about the seriousness of the energy crisis and the need for action, nationally and internationally.

Declaring a state of disaster due to an energy crisis in South Africa **may** also have the following disadvantages:

1. **Stigma**: The declaration may carry a stigma that the government is unable to handle the crisis, which could harm the reputation of the government and the nation as a whole.
2. **Political implications:** The declaration may have political implications and may be used by opposition parties to criticize the government's handling of the energy crisis.
3. **Limited control:** The declaration may result in the transfer of control over the crisis response to national or regional authorities, which may limit the local government's ability to make decisions and implement solutions.
4. **Resource constraints:** The declaration may not guarantee the availability of sufficient resources to address the energy crisis, which may prolong the crisis and result in further harm to the community.
5. **Limited public engagement:** The declaration may limit public engagement and input into the crisis response, as decision-making authority may be centralized in the hands of a few individuals or agencies.
6. **Budget constraints:** funding will be reprioritised from existing budgets which may cripple future budgets for other disasters

Recommendation:

A few themes have emerged from the presentations done by ESKOM, DPME and NECOM:

1. PFMA requirements to be relaxed.
2. Clampdown on corruption and theft.
3. Actions by ESKOM to ensure massive gains in the Energy Availability Factor (EAF).
4. Prioritization of maintenance at the top six stations.

5. Enablement of private investment in new generation capacity.
6. Acceleration of procurement of new capacity from renewables, gas and battery storage.
7. Unleash businesses and households to invest in rooftop solar.

Improving the capacity of Eskom however, requires addressing the lack of law and order in certain areas as well as bringing an end to:

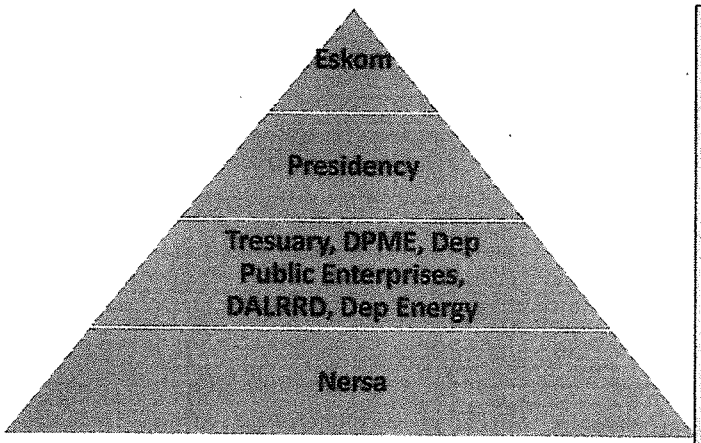
- cable or copper theft,
- theft of electricity,
- non-payment of electricity and
- corruption throughout the entire supply chain of electricity generation, transmission and distribution.

It also requires that the bureaucratic red tape at all levels that slows down approvals, lack of accountability and consequence management be addressed.

The bigger challenge though remains the:

- **alignment** of interventions by ESKOM, DPME, NECOM and the support to be provided by TREASURY, NERSA and other role-players;
- **collaboration** between the abovementioned role-players to give effect to interventions;
- **co-ordination** to ensure that outcomes are achieved in terms of the interventions implemented;
- **easing up** the bureaucratic regulatory framework to speed up procurement, implementing projects to increase the capacity of Eskom, etc.;
- **evaluation** of the impact of short-, medium- and long-term interventions;
- **implementation** of accountability and consequent management measures to address poor performance;
- **reporting** on a regular basis to all stakeholders (business, community, labour and government) on progress and
- **addressing** the lack of skills at Eskom and appointing skilled people on the basis of merit.

Empowering Eskom and the creation of an enabling environment are of critical importance. The following diagram illustrates the need to empower Eskom in terms of its decision-making authority to establish an enabling environment on its own terms.



1. Eskom has the mandate to generate, distribute and supply electricity.
2. Hence, Eskom must be elevated in terms of the NECOM organogram to the highest level.
3. Currently the Presidency has been elevated on the existing NECOM organogram to the highest level.
4. This is problematic as it disempowers Eskom.
5. Eskom should be in a top-down decision-making position to effectively address all regulatory constraints and other challenges.
6. Eskom must be the lead organisation in terms of creating an enabling environment in order for it to execute its mandate.

4. CLASSIFICATION OF STATE OF DISASTER

In view of the National Disaster Management Advisory Forum meeting held on 1 February 2023, Agri SA consulted its members on whether the current energy crisis should be classified as a state of disaster. Given the current information to our disposal the majority of our members are of the view that we should **NOT support** classifying the energy crisis as a state of disaster, while the minority support the classification.

It is motivated for the following reasons:

1. Already established structures within the Presidency's being the National Energy Crisis Committee, are attending to the issues through the nine workstreams;
2. Eskom could not provide short term interventions by which the NDMC could assist if classified as a state of disaster;
3. Agri SA is of the opinion that there is existing legislation that can be leveraged to manage the energy crisis;
4. This classification will set a precedent for future government failures being declared as disasters.
5. The purpose of the Disaster Management Act was not intended for classifying/declare state of disasters due to failing government entities.

If the NDMC is satisfied that the energy crisis should be classified as a state of disaster, Agri SA requests that the agriculture value chain be declared an essential service that will require that the impact on the sector be mitigated through intervention.

Agri SA will reconsider its mandate should we receive more information as to how the short-term interventions will solve the crisis. Furthermore, to have the assurance that highly-skilled scientists in the fields of engineering, power generation, auditing, and legal are pointed to lead the task team responsible for coordinating the interventions that will be implemented to address the energy crisis.

Agri SA is committed to bilaterally communicate with the various role players to find practical and short terms solutions to address this crisis. The impact of load shedding have a major financial effect on the sector and we should find systematic solutions to protect food security for all in South Africa.

We trust the above will assist the NDMC to make an informative decision.

Yours faithfully

Christo van der Rheede

Agri SA: Chief Executive Officer

Impact of electricity crisis in the country

Section 23 Compliance Assessment

1)	**Section 23(1):** The National Centre must determine whether this event should be regarded as a disaster in terms of this Act. In order to evaluate the application of the Act, it must be considered in terms of (A) the definition of a disaster (s1) as well as (B) the application of the Act (s2) A) **Section 1** "disaster" means a progressive or sudden, widespread or localised, natural or human-caused occurrence which (a) causes or threatens to cause— (i) death, injury or disease; (ii) damage to property, infrastructure or the environment; or (iii) significant disruption of the life of a community; <u>and</u> (b) <u>is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources; (own emphasis)</u> B) **Section 2(1)(b):** This Act does not apply to an	**Definition of a disaster** **Section 1 – part (a)** • Part (a) of the definition of a disaster on significant disruption of the life of the communities and damage to infrastructure have been indicated in the letter from Western Cape Premier and also his presentation to Technical MINMEC. • Also by letter from Agri-SA **Section 1 – part (b)** The NDMC is of the view that whilst the energy crisis that the country is facing may fall within the broad definition of a disaster as set out in section 1 of the DMA, the occurrence does not fall within the application of the DMA as set out in sections 2(1)(b) and 23. There is sufficient national legislation that exists that empower the executive to deal with the prevention and mitigation of the impact of the energy crisis. These includes, as	**Definition of a disaster** • The analysis by the NDMC, confirms that the occurrence satisfies the requirements of part (a) of the definition of a disaster. • Part (b) of the definition that even though the crisis that the country is facing may fall within the broad definition of a disaster as set out in section 1 of the DMA, the occurrence does not fall within the application of the DMA as set out in sections 2(1)(b) and 23. **Application of the Act** An analysis is that sufficient national legislation and contingency arrangements exists that empower the executive to deal with the	Letter from Western Cape Premier; [illegible] Premier Alan Winde [illegible] [illegible] PRESENTATION TO SPECIAL COGTA [illegible] Letter from Agri-SA 03 02 2023 AGRI SA NDMC.pdf Eskom Presentations Eskom update 20Jan23.pdf

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	occurrence falling within the definition of "disaster" in section 1— to the extent that that occurrence can be dealt with effectively in terms of other national legislation— i) aimed at reducing the risk, and addressing the consequences, of occurrences of that nature: and ii) identified by the Minister by notice in the Gazette.	confirmed in the presentation by DPE but is not limited to; • Public Finance Management Act (PFMA), 1999 • Electricity Regulation Act (ERA), 2006 • Preferential Procurement Policy Framework Act (PPPFA), 2000 • National Environmental Management Act (NEMA),1998 • National Nuclear Energy Act, 2004 • Companies Act, 2008 • National Energy Regulator Act, 2004 • National Treasury Regulations • Occupational Health Safety Act, 1993 • Broad-Based Black Economic Empowerment Act, 2003 • Promotion of Access to Information Act, 2000 • Labour Relations Act, 2000 • Division of Revenue Act, • Intergovernmental Relations Framework Act, • Constitution of the Republic of South Africa, and various pieces of legislation to deal with sector related contingencies.	prevention and mitigation of the impact of the energy crisis. There are various pieces of legislation to deal with sector related contingencies and there is a plan in place to address this situation, however there is a need to unblock some regulatory challenges that delays the implementation of this "ending load shedding plan". The immediate step to take is to unblock any regulatory process that impedes or delays immediate implementation of the plan to end loadshedding. **Whether this event should be regarded as a disaster** Based on the above analysis of this situation, the requested more information and the updated information received did not give any new or different view on the interventions. Up until the NDMC receives different information the situation yet	[illegible] Presentation Item 6 Engagement with DPE [illegible] DPE.pptx Presentation by DPE confirms there is a plan but there is a need for exemption/amendment to some regulatory process. 02-02-2023%20%20DPE%20-%20Presentati Presentation by DPME 02-02-2023%20-%20DPME%20%20Presen ESKOM updated presentation to HoCeF and NDMAF

		However, in to unblock some of the challenges/delays in implementing the plan of ending load shedding there is a need for regulatory amendments or exemption in some of these regulatory processes. Also, upon engagement with Department of Public Enterprise (DPE) they also indicated that in as far as this matter is concerned at this stage, **there is adequate national legislation to deal with this matter**. However, they are also in the process of obtaining a legal opinion on this matter.	does not qualify to be classified as a disaster. Application of section 2(1)b still is applicable.	 Presentation by NECOM 
2	If it is determined that a disaster exists, the National Centre must immediately- **Section 23(1)(a)**: assess the magnitude and severity or potential magnitude and severity of the disaster **Section 23(2)** When assessing the magnitude and severity or potential magnitude and severity of a disaster, the National Centre— (a) must consider any information and recommendations concerning the disaster received from a provincial or municipal disaster management centre in terms of section 35 or 49; and	Analysis of reports and presentations indicates that there are currently ongoing mitigative measures to address the energy crisis; • A national coordinating structure i.e. the National Energy Crisis Committee (NECOM), has been established in the Presidency to oversee the implementation of five key interventions to deal with the crisis: 1) Fix Eskom and improve the availability of existing supply	The energy crisis therefore does not forthrightly fall within the ambit of the DMA. However, the NDMC continues with the engagements of relevant stakeholders to enable a rational and informed decision as well as proper application of the DMA.	As above

	(b) may enlist the assistance of an independent assessor to evaluate the disaster on site.	2) Enable and accelerate private investment in generation capacity 3) Accelerate procurement of new capacity from renewables, gas and battery storage 4) Unleash businesses and households to invest in rooftop solar 5) Fundamentally transform the electricity sector to achieve long-term energy security • The DPE indicated that they are participating in various workstreams of the NECOM. The NECOM has also released a six-month progress update on the implementation of the Energy Action Plan to end the rolling power cuts. • To note also the Presidency has also engaged with a wide range of stakeholders, including political parties, labour unions, business associations, community groups, interfaith leaders, traditional leaders, premiers and mayors to ensure a collective response to this national challenge. • The amendment of schedule 2 of the Electricity Regulation Act to remove		

		the licensing requirement for generation projects, which will significantly accelerate private investment. • A new ministerial determination has also been published for 14771 MW of new generation capacity from wind, solar and battery storage to accelerate further bid windows. Furthermore, existing legislation is being implemented to accelerate implementation of measures to reduce the impact of loadshedding. • Various actions have been completed to streamline authorisation processes for energy projects: – Transmission infrastructure has been excluded from the need to obtain an environmental authorisation in areas where the environmental impact is low. • The impact of loadshedding is already being addressed by relevant organs of state through relevant legislation and arrangements.		
3	If it is determined that a disaster exists, the National Centre must immediately-	In view of the above, the classification of a disaster in term of section 23 and declaration of a national state of disaster	classification of a disaster in term of section 23 and declaration of a national state of disaster in terms of section	

	Section 23(1)(b): classify the disaster as a local, provincial or national disaster in accordance with subsections (4), (5) and (6) **Section 23(4) and 23(6)** outlines the provisions for a local and a national disaster respectively. **Section 23 (5):** A disaster is a provincial disaster if (a) it affects— (i) more than one metropolitan or district municipality in the same province; or ii) a single metropolitan or district municipality in the province and that metropolitan municipality, or that district municipality with the assistance of the local municipalities within its area, is unable to deal with it effectively; and b) the province concerned is able to deal with it effectively.	in terms of section 27, is not supported at this stage.	27, is not supported at this stage. All processes/plans to address the loadshedding issues must be allowed to unfold.	
4	The National Centre must **Section 23(1)(*bA*):** inform the relevant provincial disaster management centre of the decision on the classification of the disaster made in terms of paragraph (b); and	• The National Centre has an obligation to inform the relevant PDMC/ organs of state of the decision.	• The NDMC will inform the Western Cape on the decision of the NDMC on the classification. •	• The notice and or an e-mail, or letters or Circular to be sent to the relevant institution or organs of state to inform them of the decision.
5	The National Centre must **Section 23(1)(c):** record the prescribed particulars concerning the disaster in the prescribed register.	• NDMC must record the prescribed particulars concerning the disaster in the prescribed register	Noy yet applicable but will do so once an informed decision has been taken	• N/A
6	Section 23 (3) The National Centre may reclassify a	N/A at this stage	N/A at this stage	N/A at this stage

	disaster classified in terms of subsection (1) (*b*) as a local, provincial or national disaster at any time after consultation with the relevant provincial or municipal disaster management centres, if the magnitude and severity or potential magnitude and severity of the disaster is greater or lesser than the initial assessment.			
7	Section 23(7): Until a disaster is classified in terms of this section, the disaster must be regarded as a local disaster.	No determination at this stage	No determination at this stage	No determination at this stage
8	Section 23(8) The classification of a disaster in terms of this section designates primary responsibility to a particular sphere of government for the co-ordination and management of the disaster, but an organ of state in another sphere may assist the sphere having primary responsibility to deal with the disaster and its consequences.	N/A at this stage	N/A at this stage	N/A at this stage

Impact of severe electricity supply constraint in the country

Section 23 Compliance Assessment, 8 Feb 2023

1)	**Section 23(1):** The National Centre must determine whether this event should be regarded as a disaster in terms of this Act. In order to evaluate the application of the Act, it must be considered in terms of (A) the definition of a disaster (s1) as well as (B) the application of the Act (s2) A) **Section 1** "disaster" means a progressive or sudden, widespread or localised, natural or human caused occurrence which (a) causes or threatens to cause— (i) death, injury or disease; (ii) damage to property, infrastructure or the environment; or (iii) significant disruption of the life of a community; and (b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources; (own emphasis) B) **Section 2(1)(b):** This Act does not apply to an occurrence falling within the definition of	**Definition of a disaster** **Section 1 – part (a)** • Part (a) of the definition of a disaster on significant disruption of the life of the communities and damage to infrastructure have been indicated in the letter from the Western Cape Premier, his presentation to the Technical MINMEC and also by a letter from Agri-SA. **Section 1 – part (b)** The NDMC is of the view that whilst the energy crisis that the country is facing may fall within the broad definition of a disaster as set out in section 1 of the DMA, the occurrence does not fall within the application of the DMA as set out in sections 2(1)(b) and 23. There is sufficient national legislation to empower the executive to deal with the prevention and mitigation of the impact of the energy crisis. To list a few pieces of legislation, as confirmed in the presentation by the	**Definition of a disaster** • The analysis informed by letters, presentations and meetings with stakeholders and the executive, confirms that the occurrence satisfies the requirements of part (a) of the definition of a disaster. • The severe electricity supply constraint has a significant impact on the economy and society at large especially if it goes unmitigated and progress to a total blackout. At this stage it threatens to cause a total blackout (disaster) **Application of the Act** In this regard the NDMC is of the view that although there are various pieces of legislation to deal with sector related contingencies and there is a	Letter from Western Cape Premier; OTP Letter from Premier Alan Winde t WC PRESENTATION TO SPECIAL COGTA T Letter from Agri-SA 03 02 2023 AGRI SA NDMC.pdf Eskom Presentations Eskom update 20Jan23.pdf

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	"<u>disaster</u>" in section <u>1</u>— to the extent that that occurrence can be dealt with effectively in terms of other national legislation— i) aimed at reducing the risk, and addressing the consequences, of occurrences of that nature: and ii) identified by the Minister by notice in the Gazette.	Department of Public Enterprises (DPE) are; • Public Finance Management Act (PFMA), 1999 • Electricity Regulation Act (ERA), 2006 • Preferential Procurement Policy Framework Act (PPPFA), 2000 • National Environmental Management Act (NEMA),1998 • National Nuclear Energy Act, 2004 • Companies Act, 2008 • National Energy Regulator Act, 2004 • National Treasury Regulations • Occupational Health Safety Act, 1993 • Broad-Based Black Economic Empowerment Act, 2003 • Promotion of Access to Information Act, 2000 • Labour Relations Act, 2000 • Division of Revenue Act, • Intergovernmental Relations Framework Act, • Constitution of the Republic of South Africa, and various pieces of legislation to deal with sector related contingencies.	plan in place to address this situation, the efficacy of the existing pieces of legislation cannot be determined in the context of managing the severe electricity supply constraint, with the view to prevent a blackout from occurring. Thereforethese legislative measures cannot be gazetted as indicated in the DMA, and thus the occurrence may fall outside of the requirements set by Section 2(1)(b) of the DMA. As a result, the section 1 of the DMA which is the definition of a disaster i.e (threatening to cause a disaster) may apply to deal with the severe electricity supply constraint with the view to prevent a blackout from occurring. **Whether this event should be regarded as a disaster** As per the reason outlined above the severe electricity supply constraint situation may be classified as a national	Engagement with DPE Presentation by DPE confirms there is a plan but there is a need for exemption/amendment to some regulatory process. 02-02-2023%20%20DPE%20-%20Presentati Presentation by DPME 02-02-2023%20-%20DPME%20%20Presen ESKOM updated presentation to HoCeF and NDMAF

		However, in order to unblock some of the challenges/delays in implementing the plan of ending load shedding there is a need for regulatory amendments or exemption in some of these regulatory processes. Also, upon engagement with DPE, it was indicated that in as far as this matter is concerned at this stage, **there is adequate national legislation to deal with this matter.** However, the department is also in the process of obtaining a legal opinion on this matter.	disaster with the view to prevent progression to a total blackout. The occurrence may thus be considered in terms of the definition of a disaster, set out in section 1 of the Act, which is (threatening to cause a disaster).	 [illegible] Presentation by NECOM  [illegible]
2	If it is determined that a disaster exists, the National Centre must immediately- **Section 23(1)(a)**: assess the magnitude and severity or potential magnitude and severity of the disaster **Section 23(2)** When assessing the magnitude and severity or potential magnitude and severity of a disaster, the National Centre— (a) must consider any information and recommendations concerning the disaster received from a provincial or municipal disaster management centre in terms of section 35 or 49; and	Analysis of reports and presentations indicates that there are currently ongoing mitigative measures to address the energy crisis; • A national coordinating structure i.e., the National Energy Crisis Committee (NECOM), has been established in the Presidency to oversee the implementation of five key interventions to deal with the crisis: 1) Fix Eskom and improve the availability of existing supply 2) Enable and accelerate private investment in generation capacity	(a) As stated above, not being able to determine the efficacy of the existing legislation to manage the severe electricity supply constraint with the view to prevent a blackout from occurring, and for the fact that those legislative measures cannot be gazetted as indicated in the DMA, the situation may be classified as a national disaster with the view to prevent progression to a	As above Media coverage of various fora with different views:  [illegible]

	(b) may enlist the assistance of an independent assessor to evaluate the disaster on site.	3) Accelerate procurement of new capacity from renewables, gas and battery storage 4) Unleash businesses and households to invest in rooftop solar 5) Fundamentally transform the electricity sector to achieve long-term energy security • The DPE indicated that it is participating in various workstreams of the NECOM. The NECOM has also released a six-month progress update on the implementation of the Energy Action Plan to end the rolling power cuts. • important to note is also the fact that the Presidency has also engaged with a wide range of stakeholders, including political parties, labour unions, business associations, community groups, interfaith leaders, traditional leaders, premiers and mayors to ensure a collective response to this national challenge. • The amendment of schedule 2 of the Electricity Regulation Act to remove the licensing requirement for	total blackout. The occurrence may thus be considered in terms of the definition of a disaster, as set out in section 1 of the Act. (b) In relation to independent assessors, the DPME indicated that the MTSF of the Energy Availability Factor (>80% by 2024) would not be achieved and **recommended** that the CSIR independently assess the appropriate Energy Availability Factor.	

		generation projects, which will significantly accelerate private investment. • A new ministerial determination has also been published for 14771 MW of new generation capacity from wind, solar and battery storage to accelerate further bid windows. Furthermore, existing legislation is being implemented to accelerate implementation of measures to reduce the impact of loadshedding. • Various actions have been completed to streamline authorisation processes for energy projects: – Transmission infrastructure has been excluded from the need to obtain an environmental authorisation in areas where the environmental impact is low. • The impact of loadshedding is already being addressed by relevant organs of state through relevant legislation and arrangements.		
3	If it is determined that a disaster exists, the National Centre must immediately- **Section 23(1)(b):** classify the disaster as a local, provincial or national disaster in accordance with subsections (4), (5) and (6)	The severe electricity supply constraint has a significant impact on the economy and society at large especially if it goes unmitigated, this is then a disaster	Classification as a National disaster in terms of section 23 since it affects the whole country	

	Section 23(4) and 23(6) outlines the provisions for a local and a national disaster respectively. **Section 23 (5):** A disaster is a provincial disaster if (a) it affects— (i) more than one metropolitan or district municipality in the same province; or ii) a single metropolitan or district municipality in the province and that metropolitan municipality, or that district municipality with the assistance of the local municipalities within its area, is unable to deal with it effectively; and b) the province concerned is able to deal with it effectively.	threatening to occur as this may progress to a total blackout. Classifying the severe electricity supply constraint as a national disaster may unlock measures to support vulnerable groups where existing legislative and contingency arrangements are not adequate to do so.	**However,** to note is that the declaration of a national state of disaster may lead to legal action against government as there has been views expressed from various fora indicating that the legal requirements are not met and that the intention of the DMA was not to address matters that could be regarded as governance failures.	
4	The National Centre must **Section 23(1)(*bA*):** inform the relevant provincial disaster management centre of the decision on the classification of the disaster made in terms of paragraph (b); and	• The National Centre has an obligation to inform the relevant organs of state of the decision.	• The NDMC will inform the relevant organs of state and relevant stakeholders on the decision of the NDMC on the classification.	• The notice and or an e-mail, or letters or Circular to be sent to the relevant institution or organs of state to inform them of the decision. • Classification notice to be published in the government gazette.
5	The National Centre must **Section 23(1)(c):** record the prescribed particulars concerning the disaster in the prescribed register.	This is a situation threatening to cause a disaster.	This is a situation threatening to cause a disaster	This is a situation threatening to cause a disaster

6	Section 23 (3) The National Centre may reclassify a disaster classified in terms of subsection (1) *(b)* as a local, provincial or national disaster at any time after consultation with the relevant provincial or municipal disaster management centres, if the magnitude and severity or potential magnitude and severity of the disaster is greater or lesser than the initial assessment.	Not applicable	Not applicable	Not applicable
7	Section 23(7): Until a disaster is classified in terms of this section, the disaster must be regarded as a local disaster.	Disaster may be classified as a national disaster.	Disaster may be classified as a national disaster.	Disaster may be classified as a national disaster.
8	Section 23(8) The classification of a disaster in terms of this section designates primary responsibility to a particular sphere of government for the co-ordination and management of the disaster, but an organ of state in another sphere may assist the sphere having primary responsibility to deal with the disaster and its consequences.	Disaster may be classified as a national disaster.	Disaster to may be classified as a national disaster.	Disaster may be classified as a national disaster.

cooperative governance
Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA

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CLASSIFICATION OF THE IMPACT OF THE SEVERE ELECTRICITY SUPPLY CONSTRAINT AS A NATIONAL DISASTER

PURPOSE

To apprise the Minister of the outcome of the process undertaken to classify the severe electricity supply constraint as a national disaster.

BACKGROUND

Eskom has been beset with several operational challenges over the last two decades that have inevitably affected the efficiency of power stations in the provision of uninterrupted electricity. Whilst addressing these challenges, the power utility was compelled to invoke load shedding at escalating stages (up to stage 6) during the latter half of 2022 to date, to mitigate the risk of a total shutdown and to protect the national grid from a national blackout; the consequences of which would be catastrophic.

According to Eskom, the severe electricity supply constraints date back to 1998 following the deferral of the energy paper, lack of maintenance over a long period of time and various other aspects that have emerged that lead to a serious decline in the Energy Available Factor, of mainly the coal fired power stations.

The Energy Action Plan, announced by the President in July 2022 provides a clear path to ending the energy crisis and thereby preventing the possibility of a blackout occurring. A national coordinating structure, known as NECOM has been established and oversees the implementation of five key interventions intended to deal with the severe electricity supply constraints.

(a) Fix Eskom and improve the availability of existing supply.
(b) Enable and accelerate private investment in generation capacity.
(c) Accelerate procurement of new capacity from renewables, gas, and battery storage
(d) Unleash businesses and households to invest in rooftop solar.
(e) Fundamentally transform the electricity sector to achieve long-term energy security.

Notwithstanding the progress made to reduce the energy constraints, various calls were made to accelerate the implementation of the Energy Action Plan by declaring a National State of Disaster (NSOD).

This approach was mooted by various key role players as an appropriate response to the impact of the severe energy constraint bearing in mind, the projected impact of load shedding on the economy and society.

DISCUSSION

The NDMC is established in terms of the Disaster Management Act., 57 of 2002. The determination of a disaster and the classification of a disaster, using a defined process, fall within the responsibility of the NDMC whilst the declaration of a NSOD falls within the responsibilities of the Minister for Cooperative Governance and Traditional Affairs.

With regards to the classification of a national disaster, section 23 of the DMA, regulates principally the:

(a) determination as to whether an event should be regarded as a disaster in terms of the DMA; and
(b) classification of the disaster - once determined as such - as either a national, provincial or a local disaster.

In order to achieve this, the occurrence must thus be considered in terms of the:

(a) definition of a disaster, set out in section 1 of the Act; and then the
(b) application of the Act, set out in section 2 before a classification of a national, provincial or local disaster may occur.

In January 2023, the NDMC conducted an initial assessment to determine whether load shedding could be classified in line with the DMA as a national disaster following a letter received from the Premier of the Western Cape proposing that a NSOD be declared. The NDMC liaised with the DPE as a lead department responsible for the oversight of Eskom to determine whether the DPE and Eskom could deal effectively with the severe energy supply constraint in terms of existing national legislation. The DPE, through the Director-General (Acting) indicated that adequate plans are in place and that the existing legislation is adequate to enable the Executive through the NECOM to deal with the crisis (**Annexure A1**). The Minister for Cooperative Governance and Traditional Affairs conveyed this outcome to the Presidency in a letter dated 23 January 2023 (**Annexure A2**).

In the days that followed, numerous media articles were published arguing both for and against the declaration of a NSOD (**Annexure B**). The President also indicated publicly that the legal requirements for declaring load shedding as NSOD are being evaluated.

The NDMC held two special meetings with key stakeholders on 1 February 2023. The first meeting entailed a closed session of the Heads of Disaster Management Centres Forum where senior representatives of Eskom (**Annexure C1**), the

NECOM (**Annexure C2**), DPE (**Annexure C3**) and the DPME (**Annexure C4**) presented on the plan of action being implemented to address the severe electricity supply constraint.

(a) Eskom indicated that 25 560 MW was available and that the forecast demand was 27 714 MW. The unplanned outages totalled 17 734MW with 4654MW on planned outages. Eskom indicated that there are three levers to address the severe electricity supply constraint being, *EAF recovery* (with 10 focus areas) that can have a potential 1 862 MW impact; *Additional capacity* through various imports, emergency procurement and land leasing that can have a potential impact of 2 900 MW; and *Government Enablers*, which is external to Eskom and can assist the recovery plan. Eskom indicated that all these measures can be addressed through existing legislation and working with stakeholders in the respective work streams of the NECOM to improve coordination and cooperation.

(b) NECOM highlighted the details of the National Energy Plan including the roadmap to end severe electricity supply constraint. It also stated that good progress has been made in several areas which will result in new capacity being delivered over the next 12 – 18 months which, in 2023 focussed on 8822MW of electricity from initiatives such as imports, rooftop solar, demand response, private sector generation surplus, IPPs, etc. This was in addition to the expected 6000MW expected from improved performance of existing power stations. The NECOM highlighted work already underway to streamlining several regulatory processes across departments and indicated that the timeframes can be further reduced through cooperation and engagement in the NECOM using existing legislative measures.

(c) The DPE provided a high-level view of the Eskom legislative universe and also provided a list of exemptions needed to accelerate implementation of the plan. The DPE indicated that the Eskom Action Lab is working on key issues such as emergency procurement, incentivising rooftop solar, enabling procurement and maintenance, implementing demand side measures and having a 'one-stop-shop' to resolve bottlenecks in delivery. The DPE like Eskom indicated that all these measures can be addressed through existing legislation and working with stakeholders in the respective work streams of the NECOM to improve coordination and cooperation.

(d) The DPME indicated that the MTSF of the Energy Availability Factor (>80% by 2024) would not be achieved and recommended that the CSIR independently assess the appropriate Energy Availability Factor. The DPME also provided a summary of progress on the Energy Action Plan.

(e) The Department of Mineral Resources and Energy (DMRE) was also represented in the meeting with the NDMC but did not present a specific position.

(f) The second meeting entailed a special meeting of the National Disaster Management Advisory Forum (NDMAF) which is a forum established in terms of the DMA to provide a mechanism for relevant role players to consult one another and to coordinate their actions on matters relating to disaster management [Section 5 (3) of the DMA]. In this meeting the stakeholders above provided similar sentiments expressed in the previous engagement.

(g) In addition to the presentations made during the special meetings held by the NDMC, the National Treasury also confirmed that there is no requirement to augment existing legislation that could only be achieved by disaster classification or declaration processes as there are adequate financial instruments in place within the existing fiscal framework. In this regard the National Treasury indicated that the PFMA authorises the Minister of Finance to issue indemnities, guarantees, etc in terms of section 70 and the Minister of Finance can adjust budgets in terms of section 30. Furthermore, the National Treasury instruction note 3 of 2022 clarifies that emergency procurement is the responsibility of the accounting authority. The authority to borrow is defined in section 66 of the PFMA, and any instruments that binds the National Revenue Fund would be in terms of section 70 of the PFMA. Important to note is an indication by National Treasury that financial support plans for Eskom will be announced when the budget is tabled by the Minister of Finance.

The NDMC subsequently conducted a legislative assessment of the available information provided by stakeholders in the context of section 23 of the DMA, read with section 1 and section 2 (**Annexure D**), and concluded that:

(a) The severe electricity supply constraint has a substantial impact on the economy and society at large, especially if it goes unmitigated and progresses to a total blackout. The occurrence can be seen as a disaster as envisioned by the definition for a disaster set out in section 1 of the DMA.
(b) Eskom, the DPE and the NECOM in their presentations indicated that there is sufficient national legislation that empowers the Executive to deal effectively with reducing the risk and addressing the consequences of the severe electricity supply constraint (that may lead to a total blackout if not mitigated). Notwithstanding this, the NDMC could not conclusively establish the efficacy of the legislation and the measures instituted as attempts to obtain legal opinions obtained by the DPE and the Presidency was not provided to the NDMC. Similarly, reports from the NECOM on the analysis of legislative measures mentioned in the engagements referred to above that sought to obtain exemptions from applicable legal prescripts, relaxed requirements or approvals to be made to accelerate the mitigation measures were not provided. In this regard, the NDMC is of the view that where the efficiency of the existing legislation cannot be determined conclusively to reduce the severe electricity supply constraint and thereby prevent the likelihood of a total blackout from occurring, and those legislative measures cannot be gazetted as indicated in the DMA; the occurrence falls outside of the requirements set by Section

2(1)(b) of the DMA. With due consideration of these conditions, the DMA is deemed applicable to deal with the severe electricity supply constraint and thus it can be classified as a disaster.

On this basis, the NDMC classified the impact of severe electricity supply constraint as a national disaster to prevent the possibility that the occurrence progresses to a total blackout. A draft notice to communicate the decision to classify the occurrence as a national disaster was prepared and will be published in the Gazette following the processing of this submission (**Annexure E**).

Emanating from the classification, in terms of section 26 read with section 23(8) of the Act, the primary responsibility to coordinate and manage the disaster, in terms of existing legislation and contingency arrangements, is designated to the national executive. Given the establishment and functionality of the NECOM in the Presidency, it is proposed that Cabinet should consider strengthening the NECOM by expanding its membership to include representatives of provincial and local government. In this manner, the coordination and cooperation needed to effectively deal with the severe energy supply constraint can be achieved across the spheres of government. All organs of state are encouraged to work within the NECOM to implement the relevant plans within the framework of their pieces of legislation and contingency arrangements. It is also envisioned that the Presidents Coordinating Council can be utilised to provide regular feedback and obtain concurrence with measures from provinces and municipalities.

As these processes unfold, organs of state across the spheres of government must implement their responsibility in terms of Section 25, 38, 39, 52 and 53 of the DMA that oblige each organ of state, amongst other things, to –

a) conduct a disaster risk assessment for its functional area, including the risk of severe electricity supply constraint.
b) identify and map risks, areas, ecosystems, communities, and households that are exposed or vulnerable to physical and human-induced threats.
c) prepare a disaster management plan setting out, inter alia, the role, responsibilities, and capacity of that organ of state to deal with disaster management and the severe electricity supply constraint crisis.
d) co-ordinate and align the implementation of its plan with those of other organs of state and institutional role-players; and
e) put in place contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies.

COMMUNICATION IMPLICATIONS

The Minister and the Presidency may convene (a) media briefing(s) to communicate to the public and explain the rationale for dealing with the severe electricity supply constraint in terms of the DMA.

LEGAL IMPLICATIONS

It must also be considered that the declaration of a national state of disaster may lead to legal action taken against government considering several academic opinions inclined to hold the view that legal requirements to declare a NSOD are not met and that the intention of the DMA was not to address matters that could be regarded as governance failures. The declaration of a state of disaster for something that can be perceived as service delivery failure may set a precedent for declaring states of disaster for other service delivery failures, especially in the local government sphere.

HUMAN RESOURCE IMPLICATIONS

The NECOM should be strengthened by expanding its membership to all affected national departments and representatives of provincial and local government.

FINANCIAL IMPLICATIONS

None at this stage. The National Treasury confirmed that there is no requirement to augment existing legislation that could be achieved by disaster classification or declaration processes, as there are adequate financial instruments in place within the existing legislative and fiscal frameworks.

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RECOMMENDATIONS

It is recommended that the Minister:

Notes the outcome of the processes undertaken to classify the severe electricity supply constraint as a national disaster.

Malerata Macheli

Director: Policy Development, Institutional Structures and Compliance Management

Recommendation supported/ not supported

Ms Motlalepula Pitso

Acting chief director:

Recommendation supported/ not supported

Mr Jurgens Dyssel

Chief Director: Capacity

Recommendation supported/ not supported

Ms Ane Bruwer

Chief Director: Policy, Institutional Development and Compliance Management

Recommendation supported/ not supported

Dr Elias Sithole

DDG (Head): NDMC

Recommendation supported/ not supported

Ms Avril Williamson

Director General: Department of Cooperative Governance

Recommendation supported/ not supported

Ms Thembi Nkadimeng

Deputy Minister: Department of Cooperative Governance and Traditional Affairs

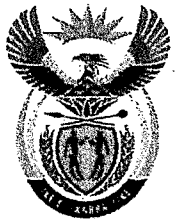
Recommendation approved/ not approved

Dr Nkosazana Dlamiini Zuma

Minister: Department of Cooperative Governance and Traditional Affairs

BRIEFING TO THE MINISTER OF COGTA ON THE CLASSIFICATION OF THE PROLONGED SEVERE ELECTRICITY SUPPLY CONSTRAINT AS A NATIONAL DISASTER

DR ELIAS SITHOLE



Cooperative Governance
Traditional Affairs

"FA24"

PURPOSE

To present to the Minister the outcome of the legal framework assessment relating to classifying the prolonged severe electricity supply constraint as a National Disaster in terms of section 23, read with section 1 and section 2, of the Disaster Management Act, 57 of 2002 (DMA).

STAKEHOLDER ENGAGEMENTS AND SITUATIONAL ANALYSIS

- The NDMC coordinated various engagements with stakeholders within and outside of government on the impact and intervention measures to curb the severe electricity supply constraint. These include key national sector departments, Provincial Disaster Management Centres, private sector and civil society, among many others.

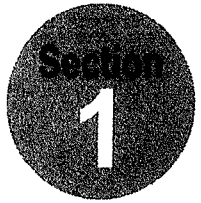
- During these engagements, some of the stakeholders presented a view that sufficient legislation and other measures are available at their disposal to manage the severe electricity supply constraint.

SEVERE IMPACT OF ELECTRICITY SUPPLY CONSTRAINT

The NDMC conducted a legislative assessment of the available information provided in the context of Section 23 of the DMA, read with section 1 and section 2, and concluded that:
The severe electricity supply constraint is having significant impact on the following sectors:

- Economy
- Critical infrastructure such as water treatment plants, sewer plants, etc
- Minisub-stations blowing up
- Food security
- Impacts on the efforts for crime prevention
- Insurance
- Health-especially in the hospitals and
- Society at large

It is necessary that contingency and other measures are strengthened to ensure the severe electricity supply constraint does not escalate to a total blackout.



DEFINITION

"disaster" means a progressive or sudden, widespread or localized. natural or human-caused occurrence which:-

(a) causes or threatens to cause-

(i) death, injury or disease;
(ii) (ii) damage to property, infrastructure or the environment; or
(iii) (iii) disruption of the life of a community; and cope with its effects using only their own resources;

(b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources

- Section 2 (1) This Act does not apply to an occurrence falling within the definition of "disaster" in section 1- (n)

- if, and from the date on which, a state of emergency is declared to deal with that occurrence in terms of the State of Emergency Act. 1997 (Act No. 64 of 1997): or
- To the extent that that occurrence can be dealt with effectively in terms of other national legislation-

Section 23 (I) when a disastrous event occurs or threatens to occur.

The National Centre must, for the purpose of the proper application of this Act, determine whether the event should be regarded as a disaster in terms of this Act, and

if so. the National Centre must immediately-

(a) assess the magnitude and severity or potential magnitude and severity of the disaster.
(b) Classify the disaster as a local, provincial or national disaster in accordance with subsections (4), (5) and (6)

Subsection (6) (a):
A disaster is a national disaster if it effects more than one province

Section 27 (1) In the event of a national disaster, the Minister may by notice in the Gazette declare a national state of disaster if–

(a) existing legislation and contingency arrangements do not adequately provide for the National Executive to deal effectively with the disaster.

(b) other special circumstances warrant the declaration of a national state of disaster.

OUTCOME OF THE LEGISLATIVE ASSESSMENT

- As per Section (1) and Section 2 of the DMA: The assessment indicates that the existing legislation is not efficient in managing the impact of the severe electricity supply constraint and therefore this occurrence is consistent with the definition of a National Disaster in terms of section 1 of the Disaster Management Act.
- As per section 27 (1) (a) of the DMA: The measures implemented are not effective to address the severe electricity supply constraint noting the prolonged and progressive impact of the severe impact of the electricity supply constraint.
- As per Section 26 of the DMA indicates that:

  "The national executive is primarily responsible for the coordination and management of national disasters irrespective of whether a national state of disaster has been declared in terms of Section 27."

NEXT STEPS

1. Minister notes the outcome of the legal framework assessment relating to classifying the severe electricity supply constraint as a national disaster

2. Minister notes that Head: NDMC will classify the severe electricity supply constraint as a national disaster on 9 February 2023.

3. Following the classification by the Head: NDMC on 9 February 2023, the Minister of COGTA will declare a national disaster.

4. As per section 26 of the DMA:

   "The national executive is primarily responsible for the coordination and management of national disasters irrespective of whether a national state of disaster has been declared in terms of Section 27."

THANK YOU

Ngiyabonga | Re a leboga | Ndo livhuwa | Nndza nkhensa | Ke a leboha haholo | Dankie | Enkosi

"FA25"

380

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No.: 2023-014861

In the matter between:

ORGANISATION UNDOING TAX ABUSE NPC	Applicant
and	
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA N.O.	First Respondent
THE HEAD OF NATIONAL DISASTER MANAGEMENT CENTRE N.O.	Second Respondent
THE MINISTER FOR CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS N.O.	Third Respondent
THE MINISTER OF MINERAL RESOURCES AND ENERGY N.O.	Fourth Respondent
THE MINISTER OF PUBLIC ENTERPRISES N.O.	Fifth Respondent
SPEAKER OF THE NATIONAL ASSEMBLY N.O.	Sixth Respondent
CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES N.O.	Seventh Respondent
ESKOM HOLDINGS (SOC) LTD	Eighth Respondent

And in the matter between:

SOLIDARITY	Applicant
and	
THE HEAD OF THE NATIONAL DISASTER MANAGEMENT	

CENTRE	First Respondent
MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Second Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	Third Respondent
ESKOM SOC LTD	Fourth Respondent
NATIONAL ENERGY REGULATOR OF SOUTH AFRICA	Fifth Respondent

REASONS FOR THE DECISION TO DECLARE A NATIONAL STATE OF DISASTER

Introduction

1. I am the Minister of Cooperative Governance and Traditional Affairs.

2. On 9 February 2023, Dr Elias Sithole, the Head of the National Disaster Management Centre ("**NDMC**") gave notice in the Government Gazette No 3019 of 9 February 2023 of the decision to classify the impact of the severe electricity supply constraint as a national disaster.

3. On 9 February 2023, I declared a national state of disaster in terms of sections 3 and 27(1) of the Disaster Management Act 57 of 2002 through publication of Notice No. 48009 in Government Gazette of 9 February 2023.

4. The Organisation Undoing Tax Abuse NPC and Solidarity have each instituted an urgent application for judicial review of Mr Sithole's classification decision and my decision to declare the national state of disaster.

5. In response to the two applications, and as required by Rule 53(1)(b) of the Uniform Rules of Court, I set out below my reasons for taking the decision to declare a national state of disaster in terms of sections 3 and 27(1) of the Disaster Management Act 57 of 2002. These reasons are to be read together with the accompanying record.

6. The answering affidavits filed in the two review applications will provide a more detailed discussion and explanation of rationale for my decision, and the decision of the NDMC, and the processes followed in taking those decisions.

Background to the decision

7. On 17 January 2023, the Premier of the Western Cape, Mr Alan Winde, wrote a letter to the President of the Republic of South Africa, copying the Minister of Public Enterprises, the Minister of Cooperative Governance and Traditional Affairs, the Chairperson of the Board of Eskom Holdings SOC Ltd and Dr Sithole, the Head of the National Disaster Management Centre. In this letter, Mr Winde explained in detail the impact of the energy crisis on the Western Cape Province, and requested that government consider declaring the "electricity crisis" a national state of disaster.

8. Pursuant to this letter, the President wrote to me requesting advice on the possibility of declaring a national state of disaster in response to the severe electricity constraints faced by the country.

9. I consulted with the NDMC who advised that their initial view – after consultation with Eskom and the Department of Public Enterprises – was that this was not a situation that warranted classification as a state of disaster because the existing legislation and government measures were sufficient to deal with the severe electricity supply constraints.

10. The schedule of legislation with provisions relevant to the current electricity crisis considered included:

- Public Finance Management Act (PFMA), 1999
- Electricity Regulation Act (ERA), 2006
- Preferential Procurement Policy Framework Act (PPPFA), 2000
- National Environmental Management Act (NEMA),1998
- National Nuclear Energy Act, 2004
- Companies Act, 2008
- National Energy Regulator Act, 2004
- National Treasury Regulations
- Occupational Health Safety Act, 1993
- Broad-Based Black Economic Empowerment Act, 2003
- Promotion of Access to Information Act, 2000
- Labour Relations Act, 2000

11. I considered this information and the schedule of legislation and communicated this view to the President in a letter of 23 January 2023. This letter is item 6 of the Record.

The decision to declare the state of disaster

12. On 8 February 2023 I held an in-person meeting with Dr Elias Sithole, the Head of the National Disaster Management Centre, to discuss the Centre's position on the classification of the country's severe energy constraints as a state of disaster.

13. Mr Sithole advised me that the NDMC had changed its position and had decided to classify the impact of the severe electricity supply constraint as a national state of disaster in terms of section 23(3) of the Disaster Management Act 57 of 2002. The decision was based on the impact of the severe electricity supply constraint on the economy and society and the threat of a progression to a total blackout.

14. I subsequently came to the view that a declaration of a state of disaster in terms of section 27 of the Disaster Management Act 57 of 2002 was necessary because:

    14.1. The existing legislation and contingency arrangements were not sufficient to effectively deal with and mitigate the impact of the electricity crisis on the economy, essential infrastructure and the majority of South Africans; and

    14.2. special circumstances warranted the declaration of a national state of disaster.

15. In coming to this view, and in taking the decision to declare a state of disaster, I had regard to the following facts and considerations:

    15.1. The fact that the NDMC intended to classify the electricity supply constraint as a national state of disaster to prevent the possible progression to a total blackout from occurring.

15.2. The information provided to me by Dr Sithole in our meeting verbally, and in the PowerPoint presentation prepared for this purpose.

15.2.1. The presentation is item 24 of the Rule 53 Record.

15.2.2. Mr Sithole explained the reasoning of the NDMC and provided me with an overview of the content of the presentations by the Department of Public Enterprises, the DPME, Eskom and the National Electricity Committee provided at the Special Heads of Centres consultations.

15.3. The provisions of the Disaster Management Act, including but not limited to the definition of "disaster" in section 1, and the requirements for the classification and declaration of a state of disaster as set out in sections 23 and 27 respectively.

15.4. My constitutional and statutory obligations as the Minister of Co-operative Governance and Traditional Affairs, and in particular the positive duty on the state to protect, promote and fulfil the rights in the Bill of Rights.

15.5. The magnitude, severity and progression of the severe electricity supply constraint.

15.5.1. The electricity constraints faced by the country continued to worsen. As a result, loadshedding escalated in its frequency and severity during January and the beginning of February 2023.

15.5.2. This has been the trend since 2019 and 2020, with a record 5 761 GWh of outages recorded in 2022, from January to September, which is more than double the figure for 2021.

15.5.3. By the end of January 2023 Eskom had announced the need for higher stages of load shedding and for longer periods than before.

15.6. The impact of the severe electricity supply constraint (and the risk mitigation measures necessary to manage the electricity supply constraint) on the economy, essential infrastructure, and the public.

15.6.1. As the electricity crisis had progressed, Eskom and municipalities had been forced to increase the severity and frequency of load shedding. This intensified the impact of the electricity crisis on the economy and the South African public.

15.6.2. Most sectors, and the general public, could manage or mitigate the impact of stage 2 or stage 3 loadshedding for short periods. However, this became far more difficult once the country was facing sustained loadshedding at stages 5and 6 where electricity was turned off for slots of up to four hours more than twice a day.

15.6.3. In addition, the continuous switching on and off of the power supply caused a range of 'knock-on' effects – including damage to essential infrastructure.

15.6.4. This was most evident from the many news articles published daily detailing the harm, and risks of harm, suffered by particular sectors, and members of the public. These articles are item 18 of the Record.

15.6.5. The letter from the Premier of the Western Cape of 17 January 2023 had also provided important information about the impact of the electricity crisis on the Western Cape Province and particularly the agricultural sector.

15.6.6. The following sectors, for example, were peculiarly and adversely impacted by the loadshedding schedules implemented by Eskom and municipalities necessary to manage the electricity constraints.

15.6.6.1. **Water infrastructure:** While water and wastewater treatment infrastructure can operate effectively with lower stages or less frequent load shedding, interruptions in supply are experienced with consistent stage 5 or 6 load shedding. We started to see a new development where loadshedding would go with water supply outages. People were hit with both an electricity and water outages. It became clear that if the Water treatment facilities were hit by loadshedding, there would not be enough water. Water treatment

facilities are also impacted by loadshedding, which can lead to development of water-born diseases and other health outbreaks;

15.6.6.2. **Healthcare:** State hospitals and clinics, as well as pharmaceutical storage facilities were seriously impacted by frequent loadshedding and time slots of longer duration. In particular, the risk to patients on ventilators in ICU units, or neonatal units. Although it was possible in certain circumstances to obtain an exemption from loadshedding, this involved a lengthy application process with the energy regulator while lives were at risk.

15.6.6.3. **Agriculture:** In the nine months ended September 30, 2022, the agriculture sector reportedly lost R23-billion, owing to crop failure and a decrease in productivity because of loadshedding. We saw farmers disposing of thousands of liters of milk, some chicken farmers were also forced to cull their chicks for the same reason. We saw the same in other areas in the supply chain, which can threaten food security if it continues.

15.6.6.4. **Small and medium enterprises:** Small business who sell cooked food and perishables are unable to cook and store their products due to prolonged load shedding schedules. Loadshedding also affects other tradespeople like dressmakers whose machines stand idle often for 4 to 8 hours during production time.

15.6.6.5. **Crime Prevention:** The prolonged electricity outages hamper crime prevention and create opportunities for lawlessness. Statistics indicate an increase in claims for burglaries and robberies when load shedding is scheduled.

15.7. Mostly importantly, I had regard to the fact that a declaration of a national state of disaster would enable government to assist, protect and provide relief to the public from the disastrous effects of a lack of reliable source of electricity. Many of government's plans and initiatives, such as the procurement of new generation capacity, will take time to materialise. Additional measures were required to mitigate the social and economic effects of load shedding and accelerate the measures necessary to close the shortfall in electricity.

16. With these considerations in mind, I saw the need to implement measures in order to address the impact of load shedding. It became clear that the legislation

referred to would not be sufficient to protect most South Africans who are affected by prolonged load shedding.

17. I decided that the declaration of a state of disaster would:

17.1. enable Eskom to procure critical infrastructure and equipment to build, repair, and restore lost generation capacity to ensure that severe electricity supply constraint does not escalate to a total blackout; and

17.2. enable government to assist, protect and provide relief to the public from the disastrous effects of a lack of reliable source of electricity.

18. On the basis of these documents, facts and considerations, as well as further discussions with Dr Sithole and members of my office, I advised Cabinet of the considerations and informed members of Cabinet of my decision to declare the national state of disaster. Cabinet agreed with my decision.

DATED AT PRETORIA ON THIS 3RD DAY OF MARCH 2023.

NL Zuma

NKOSAZANA CLARICE DLAMINI-ZUMA

Minister of Cooperative Governance and Traditional Affairs

4.3 Variations and exemptions

NERSA may from time to time issue variations or exemptions from this code of practice, where conditions require such variations or exemptions to be implemented outside of formal revisions of this code. Licensees may request such variations or exemptions from NERSA.

NOTE NERSA will consider such exemptions in light of the motivation provided, the requirements of the System Operator, and the principles outlined in section 4.4.

4.4 Principles

A co-ordinated approach to load reduction shall be developed by each licensee based on the principles articulated in 4.4.1 to 4.4.8.

4.4.1 Principle 1 – Protection of the automatic under-frequency scheme

The automatic under-frequency scheme is the last defense against a blackout of the national power system. For this reason:

a) where time permits, manual load reduction shall be implemented in order to maintain the balance between demand and supply, ensure adequate system reserves, and thereby minimize the need for the automatic under-frequency system to operate;

b) through appropriate design of the manual load reduction scheme, the integrity of the national automatic under-frequency load shedding system shall not be materially compromised when manual load reduction is undertaken;

c) where system conditions dictate, proactive load reduction may be required to prevent deeper levels of load shedding that could place the system at greater risk later in the week;

NOTE Although both automatic under-frequency load shedding and manual load shedding respond to a supply/demand imbalance, the conditions that these respond to and the consequences of their failure to respond are very different. Manual load shedding is a controlled, ordered and pro-active measure to manage a short-term capacity constraint on the system. Automatic under-frequency load shedding is an immediate, reactive response to a sudden unplanned loss of generation that might otherwise compromise the system integrity. The consequences of an inadequate response by the automatic under-frequency scheme can be catastrophic and widespread, which includes a complete loss of supply to the entire national power system.

4.4.2 Principle 2 – Equitable participation by all customer installations

Customers supplied by different licensees should to be treated similarly in terms of the requirements of this code of practice. All customer installations should be considered for mandatory load reduction under a system emergency, based on broadly equitable participation by customers. To this effect, all customers should by default be shed, and such shedding shall be in terms pre-defined load shedding schedules, unless agreed otherwise in writing between the licensee and the customer in terms of the provisions provided in this document relating to demand response participation, critical loads, load curtailment, or independent power producers. Exclusion of customers for reasons not specified in this document shall be approved in writing by NERSA in terms of the provisions in 4.1.

NOTE 1 Manual load reduction in the event of a system emergency is required in order to prevent the power system from approaching or sliding into an unstable state. The financial implications associated with a national blackout far outweigh the economic cost of manual load curtailment or shedding. The financial impact to a specific customer alone is therefore not sufficient to justify exclusion of individual customer installations from the emergency load reduction. Other considerations related to possible exclusions from load shedding schedules (such as safety and impact on the environment) are addressed in this part of NRS 048 by the requirements related to critical and essential loads. Mechanisms are provided for under this part of NRS 048 in order to reduce the potential impact on customers. These include curtailment options (both voluntary and mandatory), options for customers to cooperate with each other to provide the required reduction, and technology options such as smart metering.

NOTE 2 The definition of mandatory load reduction in the event of a system emergency does not include contracted interruptible load and loads that participate in the demand market (demand response programme). Participation of customers providing such interruptible loads is addressed in this part of NRS 048 (for example, these may under certain conditions be excluded from Stages 1&2 of load shedding or curtailment).

NOTE 3 Broadly equitable participation by customers implies that factors such as practical network constraints, a customer's ability to curtail load, and essential loads requirements should be taken into account. For some customers, the scheduled outage time might have a consequent recovery time depending on their specific application of electrical energy, and so they might be more affected than other customers.

NOTE 4 Exclusions approved by NERSA might be in terms of critical impact at a specific period during the day (e.g. high crime areas), or in terms of related legislation (e.g. as a disaster risk reduction measure where an area is faced with a drought).

NOTE 5 Equitable participation is a requirement that arises from the Electricity Regulation Act.

4.4.3 Principle 3 – Protection of critical and essential loads

Critical loads and essential load requirements shall be taken into consideration in order to limit the potentially negative impacts of mandatory load reduction on safety, the environment, and infrastructure that is critical to communities and the economy.

NOTE It is not always possible for such loads to be excluded from load shedding schedules or mandatory load curtailment. Provisions for such loads are defined in this part of NRS 048.

4.4.4 Principle 4 – Availability of load shedding schedules

Load shedding schedules shall be proactively developed, maintained, and made available to customers.

4.4.5 Principle 5 – Nature of the load shedding schedules

Load shedding schedules should be developed in such a manner so as to ensure maximal standardization across all licensees, whilst still allowing for flexibility to address local conditions.

NOTE For this reason the minimum design requirements for the schedules do not strictly specific all parameters (e.g. some licensees may shed customers for 2 hrs, whilst other licensees may choose to shed customers for 4 hrs. but less frequently).

Load shedding schedules shall meet the following minimum requirements:

a) coverage over 24 hours per day, all 7 days of the week;

b) time-based, rotational slots of 2 to 4 hours (see NOTES 1, 2, 3);

c) load reduction of 5 % to 6 % for each block (see NOTE 4);

d) rotational timeslots that ensure that customers are not interrupted at the same time each day (see NOTES 5 and 6);

e) all customers shall be on the schedules, with the exception of those provided for in this code of practice; and

f) schedules should where possible be optimized for the seasonal demand profiles (NOTE 6).

Load shedding schedules and curtailment requirements are defined up to a predefined maximum load reduction (see NOTE 7). Where additional load shedding is required, this is regarded as an extreme system condition explicitly excluded from the principles in this section, and which will be handled in accordance with the situation prevalent at the time (see NOTE 8).

NOTE 1 Time-based manual load shedding is chosen for the following reasons:

"FA27"

NATIONAL ASSEMBLY

FOR WRITTEN REPLY

QUESTION NO. 07

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 09 FEBRUARY 2023 (INTERNAL QUESTION PAPER NO. 01)

Mr P A van Staden (FF Plus) to ask the Minister of Health:

(1) Whether all government (a) hospitals and (b) clinics in each province are exempt from load shedding under the current Eskom crisis of electricity blackouts; if not, why not; if so, (i) which government (aa) hospitals and (bb) clinics in each province are still not exempt from load shedding and (ii) what measures are being put in place to ensure that all state- and provincial hospitals and clinics are exempt from load shedding;

(2) whether he will make a statement on the matter? NW7E

REPLY:

(1) (a-b) Not all government facilities have been exempted from the load-shedding. However, the National Department of Health has provided Eskom with a total of 213 hospitals to be considered for possible exclusion from loadshedding. About 67% of these hospitals are supplied by municipalities while Eskom supplies about 33% of the identified hospitals. Out of the 213 hospitals, 76 hospitals have been exempted of which 26 are directly supplied by Eskom and 50 by Municipalities. The number of hospitals exempted to date have doubled since the meeting held on 22 September 2022 between Eskom and National Department of Health.

(i) (aa) See below the number of hospitals that are exempted to date across the country:

EASTERN CAPE		
Hospital name	Eskom/Munic supplied	Exempted(Y/N)
Nelson Mandela Academic Hospital	Municipality	Yes
Frere Tertiary Hospital	Municipality	Yes
Livingstone Tertiary Hospital	Municipality	Yes
Dora Nginza Regional Hospital	Municipality	Yes
Uitenhage District Hospital	Municipality	Yes
Elliot Hospital	Municipality	Yes
PE Hospital	Municipality	Yes

LIMPOPO PROVINCE		
Hospital name	Eskom/Munic supplied	Exempted(Y/N)
Mankweng hospital	Eskom	Yes
Letaba hospital	Eskom	Yes
Dilokong Hospital	Eskom	Yes
Lebowakgoma Hospital	Eskom	Yes
Mokopane Hospital	Eskom	Yes
Thabamoopo Mental Hospital	Eskom	Yes
Maphuta Malatjie Hospital	Eskom	Yes
New Nkhensani Hospital	Eskom	Yes
Old Nkhensani Hospital	Eskom	Yes

KWAZULU NATAL PROVINCE		
Hospital name	Eskom/Munic supplied	Exempted(Y/N)
Harry Gwala Hospital	Eskom	Yes
Ngwelezane Hospital	Municipality	Yes
GJ Crookes	Eskom	Yes
Christ The King Hospital	Eskom	Yes
Greys Hospital	Municipality	Yes
Ladysmith Hospital	Municipality	Yes
RK Khan Hospital	Municipality	Yes
Inkosi Albert Luthuli Hospital	Municipality	Yes
McCords Hospital	Municipality	Yes
King Dinizulu Hospital	Municipality	Yes
Mahatma Ghandi Hospital	Municipality	Yes
Osindindiweni Hospital	Municipality	Yes
St Aidans Hospital	Municipality	Yes
Addington Hospital	Municipality	Yes
Clairwood Hospital	Municipality	Yes

MPUMALANGA PROVINCE		
Hospital name	Eskom/Munic supplied	Exempted(Y/N)
Evander Hospital	Municipality	Yes
Themba hospital	Eskom	Yes
Mpungwe Hospital	Eskom	Yes
Kwamhlanga Hospital	Eskom	Yes

WESTERN CAPE PROVINCE		
Hospital name	Eskom/Munic supplied	Exempted(Y/N)
George Regional Hospital	Municipality	Yes
Tygerberg Hospital	Municipality	Yes
Groote Schuur Hospital	Municipality	Yes
Red Cross Hospital	Municipality	Yes

NORTHERN CAPE AND NORTHWEST PROVINCES			
Hospital name	Eskom/Munic supplied	Province	Exempted(Y/N)
De Aar Hospital - De Aar	Eskom	NC	Yes
Taung hospital	Eskom	NW	Yes
Ganyesa Hospital	Eskom	NW	Yes
Moses Kotane hospital	Eskom	NW	Yes
Robert Sobukwe	Municipality	NC	Yes

FREE STATE PROVINCE		
Hospital name	Eskom/Munic supplied	Exempted(Y/N)
Pelonomi Hospital	Municipality	Yes
Universitas	Municipality	Yes
National	Municipality	Yes
Free State Psychiatric Complex	Municipality	Yes
Pasteur	Municipality	Yes
Rosepark	Municipality	Yes
Primary Health Care	Municipality	Yes
Botshabelo Hospital	Municipality	Yes
Santoord Hospital	Municipality	Yes
Oranje (Medical Clinic) Hospital	Municipality	Yes
FS Psychiatric Oranje Hospital	Municipality	Yes
Metsimaholo Hospital	Municipality	Yes
St Helena Hospital	Eskom	Yes
Busamed	Municipality	Yes

GAUTENG PROVINCE		
Hospital name	Eskom/Munic supplied	Exempted(Y/N)
Charlotte Maxeke Johannesburg Academic Hospital (CMJAH)	Municipality	Yes
Helen Joseph Hospital (HJH	Municipality	Yes
Steve Biko Academic Hospital (SBAH)	Municipality	Yes
Rahima Moosa mother and child	Municipality	Yes
Dr George Mukhari	Eskom	Yes
Odi	Eskom	Yes
Jubilee	Eskom	Yes
Thelle Mogoerane	Eskom	Yes
Sebokeng/ Kopanong	Eskom	Yes
Weskopies mental hospital	Municipality	Yes
Tara mental hospital	Municipality	Yes
OR Tambo memorial	Municipality	Yes
Pretoria West Hospital	Municipality	Yes
Tshwane District Hospital	Municipality	Yes
Bronkhrospruit Hospital	Municipality	Yes
Kalafong Hospital	Municipality	Yes
Mandela Children's Hospital	Municipality	Yes
Chris Hani Hospital	Municipality	Yes

(i) (bb) Clinics and Community Health Centres are going to be covered within the solar energy roll-out programme.

(ii) The National Department of Health in partnership with CSIR (Council for Scientific & Industrial Research) is currently conducting a due diligent exercise for the installation of solar panels at all our health facilities

END.

NOTE 1 Such systems will not save energy, in that the energy used is proportional to the quantity of water pumped. Shedding these systems will therefore only result in a load reduction at the time. Significant energy will be used to make up the water demand and therefore consideration of the specific type of emergency might be required (i.e. if the expected duration of the emergency is more than 2 h in 72 h, load curtailment from these systems will in general not be appropriate).

NOTE 2 Public potable water systems have extensive hydraulic networks. Interrupting the electrical supply to these systems will result in pressure surges which can endanger the health and safety of the public.

NOTE 3 Public potable water systems consist of hydraulic networks and gravity distribution networks. Interrupting the electrical supply to these systems for an extensive period will result in the ingress of air into the hydraulic system. The removal of air from these systems can take days during which the operators of potable water systems will not be able to supply potable water to the public.

8.6.5.4.6 Licensees should engage with water suppliers and other licensees where water systems cross supply boundaries to minimize the impact of shedding on these systems.

8.6.6 Sports stadiums

8.6.6.1 Sports stadiums should be required to participate in emergency load shedding or curtailment.

8.6.6.2 Stadiums should ensure that on-site backup supplies should be available for critical processes.

8.6.6.3 The licensee control centre that manages the emergency load reduction of the stadium should provide the stadium with direct access to the control room in the case of an emergency (e.g. the failure of backup generators). Where the licensee is notified of a major sporting event, protocols should be agreed upon for notifying these customers that load shedding has commenced – so as to allow them to start up the backup generators.

8.6.6.4 In the case of major sports events, the requirements in section 4.8.6 may be applied.

8.6.7 Sewerage

Generally sewerage systems should be included in load shedding schedules. Special attention should be given to identify linked pump stations and to co-ordinate load shedding to ensure that shedding will not result in adverse environmental consequences. Where this is not possible, these systems may be removed from load shedding schedules.

8.6.8 Refineries and fuel pipe lines

Refineries, fuel pipe lines, and associated loading and off-loading depots should be excluded from emergency load reduction requirements.

NOTE Current refinery and pumping capacity is limited in the country.

8.6.9 Mines that supply power stations

Coal mines that supply power stations (including co-generation plant) should be excluded from load shedding schedules.

8.6.10 Educational facilities

Educational facilities should be included in load shedding schedules.

NOTE 1 These facilities are generally within communities and would result in significant sections of load not being shed to maintain supply to these installations.

NOTE 2 It is possible that arrangements may be made to limit the impact of load shedding on educational facilities at critical times of the academic year through consultation between government and NERSA. This

may entail pre-planning on the system and the use of only curtailment loads whether the system constraint can still be managed.

8.6.11 Electricity control centres

Electricity control centres may be excluded from load shedding schedules.

NOTE These will by default be informed of load shedding as part of the load shedding process.

8.6.12. Ports authorities

Ports authorities should be included in load shedding schedules.

8.6.13 Essential services

Police, fire fighting, and other essential services should be included in load shedding schedules. These customers should provide their own backup facilities.

Processes should be in place to provide fire fighting services with information when load shedding has commenced. In the event of a fire, these services should liaise directly with the control centre or appropriate liaison mechanism provided for in advance by the licensee.

NOTE These facilities are generally within communities and would result in significant sections of load not being shed to maintain supply to these installations.

8.6.14 Telecommunications infrastructure

The facilities of telecommunication service providers should be included in load shedding schedules. These customers should provide their own backup facilities and contingency plans.

NOTE 1 These facilities are generally within communities and would result in significant sections of load not being shed to maintain supply to these installations.

NOTE 2 The need for contingency plans and backup applies in particular to electricity control room to control room communication.

8.6.15 Hospitals and medical centres

8.6.15.1 General

8.6.15.1.1 Hospitals and medical centres should be included in load shedding schedules.

8.6.15.1.2 State and private hospitals should be treated equally.

8.6.15.2 Category 1 – Hospitals with life-support systems

8.6.15.2.1 These hospitals should provide their own backup facilities.

8.6.15.2.2 Protocols should be in place for hospitals to contact the local operations centre directly in the event of an emergency, for example, if the backup facility is out of service at the time of load shedding.

8.6.15.2.3 Protocols should be in place for notifying these customers that load shedding has commenced – so as to allow them to start up the backup generators.

8.6.15.3 Category 2 – Hospitals without life-support systems

8.6.15.3.1 Hospitals should, if practicable, provide their own backup facilities.