



30 July 2021

Mr S Luzipo, MP –  
Chairperson of the Portfolio Committee on Mineral Resources & Energy

For Attention: Mr Arico Kotze  
Email: [akotze@parliament.gov.za](mailto:akotze@parliament.gov.za)

Dear Mr Luzipo

## Written Submission from the South Durban Community Environmental Alliance on the Gas Amendment Bill

### INTRODUCTION

The South Durban Community Environmental Alliance (“SDCEA”) is a non-governmental organisation representing 21 community and environmental organisations concerned with environmental justice and sustainable development in South Durban and KwaZulu-Natal. SDCEA represents vulnerable and disadvantaged persons whose lives and livelihoods depend on the protection of ecosystems of KwaZulu-Natal, in the vicinity of Durban. Its members include the following institutions:

- a. BioWatch
  - b. City of Love Ministries
  - c. Poor Flat Dwellers Association
  - d. Airport Farmers Association
  - e. Merebank Ratepayers Association
  - f. Silverglen Civics
  - g. Anti-Pollution Watchdogs
  - h. KZN Subsistence Fisherfolk Forum
  - i. Christ the King Church
  - j. Earthlife Africa
  - k. Athlone Park Residence Association
  - l. Merebank Civic Committee
  - m. Bluff Ridge Conservancy
  - n. Urban Futures Centre
  - o. Chatsworth Civics
  - p. Active Citizens Movement
  - q. Ubunye Bamahostela
  - r. Wentworth Development Forum
  - s. Clairwood Social Forum
  - t. Clairwood Ratepayers Association
  - u. Treasure Beach Environmental
- The SDCEA has for the last two decades participated in forums for the improvement of environmental management in KZN and in particular, in the industrial areas south of Durban.

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Umkomaas Anti-Pollution Watchdogs  
Isipingo Environmental Committee  
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## Introduction

The Gas Amendment Bill falls short when it comes to achieving many of the goals laid out in its introduction. The text reads:

*“To amend the Gas Act, 2001, so as to amend and insert certain definitions; to provide for the promotion of the orderly development of the gas industry; to enhance the national regulatory framework; to promote broad-based black economic empowerment; to provide for socio-economic and environmentally sustainable development; to provide for new developments and changing technologies in the gas sector; to facilitate gas infrastructure development and investment; to provide for cooperation between the private and public sectors in the gas industry; to strengthen enforcement and improve compliance; and to provide for matters connected therewith.”*

While it is true that it attempts to accomplish some of these objectives, it seems as others are completely disregarded throughout. The majority of this bill focuses on the government’s relationship with the private sector and attempts to facilitate access to gas licenses.

## Public Participation

All citizens of South Africa need to be included in the public participation process. Gas pipelines are going to be places across South Africa and has the potential to affect millions of people, therefore communities should have a say has to what goes in their land. Therefore section 6; 6,18 which says that *‘it is not necessary to refer this Bill to the National House of Traditional and Khoi-San Leaders in terms of section 39(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019)’* needs to be reconsidered. The processes must be inclusive. When applying to the Energy Regulator, it is important there are public hearings where the public can express their concerns.

## Concerns with the Amendments

- Under Section 18 (2)

*The Minister may, in writing, direct that when the Energy Regulator decides upon a licence application, the Energy Regulator must satisfy itself that such application meets, inter alia, any additional criteria specified by the Minister, which criteria must be based upon, and must reflect— (a) the objects of the Act;*

*(b) the national interest;*

*(c) the promotion of regional growth; or*

*(d) any other social objective.*

This insertion of a subsection below is of concern. Surely this must not be in contravention of other national interests, for example, the protection of the ocean for future generations? Does this idea of additional criteria mean that NERSA’s powers could be constrained?

Should there not be a mandatory consultation period if the minister is going to specific such criteria?

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- Section 21c (d) which states ‘*third party access to uncommitted capacity in any gas facility and interconnection, where appropriate, in accordance with the principles prescribed by the Minister;*’ What principles does this pertain to and will there be any public consultation around them around these principles.
- Section 21c (o) ‘*the termination of the provision of gas or the operation of gas facilities, including the provision of gas services, where this is necessary from an environmental or health and safety perspective, and reconnection as soon as reasonably possible without undue discrimination*’

What does “*without undue discrimination*” mean? If there is environmental damage, then the reconnection might not occur, even if it discriminates against the polluter.

- Section 22A talks about exclusivity which we do not agree with. Exclusivity leads to monopolies and fixed prices and this will not benefit the public.
- Section 23 (1) *Any licence issued in terms of this Act to operate a gas facility, to provide a gas service, or trade in gas, is valid for [a] the period [of 25 years or such longer period as the Gas Regulator may determine]* With the rate of changing climate 25 years or longer is not advisable if South Africa wants to reach its climate goals.

Howarth (2021) concludes that the climate impacts of gas are greater than those of coal per unit of energy produced when evaluated in a 20-year timeframe, the period most relevant for climate change if humans are to avoid catastrophic run-away warming. The science summarized reveals the following:

- Though gas emits less carbon dioxide at combustion per unit energy than coal, its upstream greenhouse gas (GHG) emissions are more problematic for the climate, as it releases potent methane in leaks and venting throughout its lifecycle.
- Researchers have been able to detect emissions across the lifecycle of gas ever more accurately given new methodologies and technologies (particularly “top-down” measurements using satellite and aerial assessments); these new studies have consistently shown that emissions from gas production are higher than were previously estimated using “bottom-up” facility-based measurements. New research is also revealing higher downstream gas emissions than earlier predicted (i.e., in gas transmission, distribution, and end use).
- The average lifecycle emissions of gas are growing globally because
  - Shale gas is growing as a percentage of all gas, and its production likely emits more methane and other greenhouse gases than conventional gas production; and
  - Liquefied Natural Gas (LNG) markets are growing, and turning gas into a liquid for shipping requires large amount of gas to be burned, greatly increasing the gas’s GHG emissions.
- Section 26 which talks about compliance are of utmost importance and must be taken very seriously in matters of public health and safety and environmental damage.

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- Section 28A which talks about the Gas masterplan must be revised annually in line with the IEP.

The gas masterplan should undergo an SEA for each revision? There must be a meaningful inclusive public participation process for the Gas masterplan.

- Section 28B *Powers of Minister regarding new gas facilities, services or gas and integrated energy projects*

We don't want any infrastructure to operate without a determination. Any deviations from any plan which has gone through a proper consultation process must still go through a public participation process to ensure all communities are involved.

- Section 32 *Expropriation of land by [Gas] Energy Regulator*

The expropriation must ensure that protective measures for national parks and protected coastal areas cannot be expropriated. Also areas with communities close by that can be directly affected by gas pipelines need to be reconsidered if and when expropriation occurs.

- Section 33a (a) *Subject to subsections (2) and (3), a [licensee] distribution company may lay and construct pipes for the distribution of gas under [or], over, or along, any [such] street or road, and may from time to time repair, alter or remove any pipes so laid or constructed within its licenced area of supply.*

Companies should give residents a notice of 1 week and should be warned of the dangers that could occur when digging up a gas pipeline if not an emergency. Companies should also ensure that roads or pavements dug up should be sealed off immediately once the issue or maintenance has occurred.

## Process of Obtaining a License

This document greatly streamlines the process by which entities can obtain licences from the Energy Regulator in order to participate in the activities outlined in the act. It provides a clear framework as to how entities should obtain licences, as well as facilitating access to licences by creating a standardized process. Given much of the research that has come out since the original Gas Act was passed in 2001, and how it has been proven time and time again that natural gas has a detrimental impact on the environment, this amendment to the original bill must go to greater lengths to curb these emissions, rather than allowing them to continue at current rates. While it is important to acknowledge how these licences in and of themselves are a good start to regulating greenhouse gas emissions, they are not enough to protect South Africa's natural resources and its environment. This bill gives the Energy Regulator a great deal of discretion when it comes to the interpretation of it. It is critical that more protections get codified into law if the government is trying to maintain clean air for future generations. Most of the clauses in this act seem to pertain to the business side of the gas industry, such as tariffs and prices. On the other hand, some important sources of concern, such as sustainable development, are brushed aside.

## Promoting Environmentally Sustainable Development

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As seen in the description, one of the act's goals seems to be to "Provide for socio-economic and environmentally sustainable development," yet very little of the bill seems to talk about this. Clause 14 claims that licence holders and facilities must comply with the standards stipulated either in the licence or determined by the Energy Regulator, and there is also one quick mention of environmental rehabilitation, but that seems to be almost all that is in the act concerning sustainability. Given the large impact an increased investment in gas is going to have, it is of utmost importance that the bill includes more regulation on this and is more specific on how, exactly; sustainable development is going to be promoted. What concrete measures is the government going to take to ensure that the development actually is, in-fact, environmentally sustainable? What is its long-term plan? Does the government expect to use natural gas forever or will it transition to other types of fuel? These are just some of the many questions that arise when it comes to promoting sustainability. Simply claiming that socio-economic and environmentally sustainable development is one of the act's goals will not make this true. To do so, more clauses are needed to touch on this issue directly.

### Alternatives

Instead of focusing all of these resources into expanding the current gas programs, the government should consider looking more into renewable energy sources that will be more sustainable in the long-run and which will lead to a net reduction of emissions in the long run. While some may think that gas might be the best option for South Africa at the current time, it is important to note that the methane and other chemicals emitted from the production and usage of natural gas are likely to cause irreparable damage to the environment. Some of the questions that arise are: What will the long-term costs to society be when it comes to natural gas? Have the environmental damages been considered when looking at the cost? How great would the investment to switch to renewable energy actually have to be?

### Conclusion

Overall, there are still many changes that should be made to the bill if the government is actually serious about accomplishing the goals laid out in the document. While the amendment makes it easier to promote the development of the gas industry and infrastructure, some of the other goals, including sustainable development, are almost completely disregarded in this act.

### References

1. Howarth, R.W. 2021. Gas Lifecycle Methane Emissions, Richards Bay Review.  
<https://naturaljustice.org/wp-content/uploads/2021/05/FA-12-Howarth-RichardsBayReview.pdf>

Regards

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