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**SUBMISSION TO THE
PORTFOLIO COMMITTEE ON MINERALS AND ENERGY
on the
NATIONAL ENERGY BILL [B52 – 2008]**

This submission is made by the Wildlife and Environment Society of South Africa (WESSA)

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Introduction:

WESSA believes in the right of every South African to have access to affordable, reliable and efficient energy and a healthy environment in the context of sustainability. The reality is that South Africa has been unable to sustain an exponentially increasing demand for energy, particularly electricity. The task of ensuring a secure energy supply now and in future is challenging as it exists within the multiple contexts of South Africa's developmental needs, environmental integrity and climate change. WESSA acknowledges that the National Energy Bill goes some way to addressing these multiple contexts and provides for more cohesive research, planning and decision-making.

General Comment:

The mandates of the various structures proposed in the Bill are deliberately broad so as not to exclude new technologies and inventions. WESSA does, however, have a general concern that the proposed legislation does not appear to envisage households (urban and rural) generating their own energy (electricity) from renewable resources and, where appropriate, feeding any excess capacity into the national supply grid. WESSA is concerned that certifications, qualifications and regulations that will emanate from this Bill and are directed at bulk suppliers of electricity, will, unintentionally, render it impossibly difficult for households to generate their own electricity from renewable sources. The same may well apply to future cogeneration technologies of industries that are currently not using the heat energy that is a by-product of their industrial processes.

CHAPTER 1 – DEFINITIONS AND OBJECTS

Definitions

WESSA believes that the following terms require definition:
“Energy”

“**Sustainable development**” (as defined by the National Environmental Management Act)
 “**Senior personnel**” of the National Energy Modelling and Information Agency

Objects of the Act

WESSA believes that an additional object of this proposed Act should be to reduce South Africa’s dependence on carbon intensive energy supply technologies through increased use of renewable energy sources.

CHAPTER 2 – ENERGY SUPPLY, OPTIMISATION AND UTILISATION

Safety, health and environment

4(1) and 4(2): WESSA suggests replacing the word “may” with the word “must”. WESSA believes that the matter of safety, health and the environment should be mandatory and not discretionary, as proposed in the Bill.

Energy access by households

5(1): WESSA suggests that the word “may” is replaced with the word “must” in order to make it mandatory that the Minister establish a programme or programmes that provide for universal access to appropriate forms of energy for all South Africans at affordable prices.

5(2): WESSA suggests the inclusion of a clause that makes it obligatory for such programmes to take into account greenhouse gas emissions and the impacts of climate change.

CHAPTER 3 – NATIONAL ENERGY MODELLING AND INFORMATION AGENCY

Functions of the National Energy Modelling and Information Agency

8(2)(b): WESSA suggests the inclusion of a clause that makes it mandatory for the National Energy Modelling and Information Agency to provide the Minister with an analysis of greenhouse gas emissions from the energy sector.

Constitution of National Energy Modelling and Information Agency

9(3): WESSA suggests that some control be placed on the number of times that the Energy Information Administrator can be reappointed by the Minister on expiry of the term of office.

9(9)(a)&(b): WESSA recommends the addition of a clause to the effect that knowledge and extensive understanding of the relationship between climate change and energy issues be included in the skills contained within the National Energy Modelling and Information Agency.

Operating principles governing National Energy Modelling and Information Agency

11(1)(d): WESSA suggests the following amendment: “be bound by technological, socio-economic, **environmental** and other realities.”

11(1)(f): WESSA suggests the following amendment: “**use only** proven and generally accepted financial, economic, **scientific** and technical theories.” (Note the change from “only use” to “use only”, which is logically correct).

11(2): WESSA suggests that it be specified that the outputs be published electronically in an **unrestricted** area of the Agency’s website, so that members of the public are definitely able to access these outputs.

11(3): WESSA is pleased to note that the Bill articulates the importance of the independence of the National Energy Modelling and Information Agency and that it is specifically stated that reports emanating from this Agency must be free of other sectoral influences. This clause makes it essential that expertise in the greenhouse gas emissions and climate change arenas be included amongst the Agency staff.

Duties of personnel of National Energy Modelling and Information Agency

12(d): WESSA proposes the following correction: "Act **independently** of any undue ..."

Publications by National Energy Modelling and Information Agency

13(1)(b): WESSA suggests the following amendment: "five-year forecasts of energy demand and supply for the following 25 years."

13(2)(h): WESSA recommends that this clause be amended as follows: "be available immediately to the general public in hardcopy and electronic format, downloadable from an unrestricted area of the Agency's website."

13(2)(i): WESSA suggests the inclusion of a clause that ensures that such publications made by the Agency be based on current data.

Funding of National Energy Modelling and Information Agency

14: WESSA notes that the National Energy Modelling and Information Agency may receive donor funding and at the same time that the Agency is required to be independent of other sectoral influences. For this reason, WESSA suggests that it is a requirement that all donors, together with the amounts donated, are publicly listed and that this list be made available on demand to any member of the public. The Bill should include a clause to this effect after section 14.

CHAPTER 4 – INTEGRATED ENERGY PLANNING

Integrated Energy Planning

16(2)(g): WESSA suggests replacing "the environment" with "environmental impacts".

16(3)(d): WESSA recommends that this clause be amended as follows: "...guide the selection of **appropriate** technology to meet energy demands **in a socially, environmentally and economically sustainable manner.**"

16(5): WESSA agrees with the 25-year planning horizon, but believes that this should be implemented via 5-year planning intervals (see comment on section 13(1)(b)).

CHAPTER 5 – SOUTH AFRICAN NATIONAL ENERGY DEVELOPMENT INSTITUTE

Constitution of South African National Energy Development Institute

18(2): WESSA strongly recommends that organised civil society representation be included in the Board composition.

18(6): Once again, WESSA recommends that there be a limit to the number of times that the Chairperson of the Board may be reappointed.

Chief Executive Officer of South African National Energy Development Institute

21(4): It is unclear why the Bill makes no provision for the reappointment of the Chief Executive Officer on expiry of the five-year contract period. Elsewhere in the Bill, in similar situations, such provisions are made.

South African National Energy Development Institute employees and conditions of service

22(4)(a): the word “his” should be replaced with “his or her”

Funding of South African National Energy Development Institute

24: The same comment made with respect to donations made to the National Energy Modelling and Information Agency applies here (see Section 14)

Measures to promote renewable energy

27(1)(f): See **General comment** at the beginning of this document. WESSA suggests that the word “measures” be replaced with the word “**technologies**”. WESSA believes that it is important not to suppress private and individual initiatives to generate electricity for domestic and small business use. Care must be taken that this is not an inadvertent outcome of the Bill.

(Establishment and functions of?) National Energy Efficiency Division

Measures to promote energy efficiency

Given the formidable challenges posed by climate change, WESSA is of the opinion that clauses **29(1)** and **29(2)** should become mandatory through replacing “may” with “**must**”. In an energy, water and climate-change constrained society, it is not acceptable that such energy efficiency measures are discretionary.

Establishment and functions of (National?) Energy Research and Development Division

30(2)(b): Section **30(2)(a)** excludes nuclear energy which falls under the South African Nuclear Energy Corporation. For the sake of consistency, surely nuclear energy should also be excluded from the provisions of **30(2)(b)**?

CHAPTER 8 – GENERAL PROVISIONS

Regulations

35(2)(a): WESSA recommends that it be mandatory for the Minister to consult with the National Energy Modelling and Information Agency and that this be reflected by replacing the word “may” with the word “**must**”.

Short title and commencement

37(2): WESSA is concerned by the complete open-endedness of this clause, which could result in certain provisions of the Act being implemented years after the Act has come into operation. It is WESSA’s fear that economic growth will be promoted unsustainably as a consequence of unequal implementation of the Act and that renewable energy technologies will continue to be relegated to background noise and will be overlooked. WESSA strongly recommends that it be stipulated that all provisions of the Act must be implemented within two years of promulgation of the Act. In addition, given the impacts of climate change, it is imperative that renewable energy technologies be prioritised in the short-term.

In conclusion, WESSA wishes to thank the Chairperson of the Portfolio Committee on Minerals and Energy for this opportunity to comment on the National Energy Bill.

Please do not hesitate to contact me if you require further information on this submission.



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