

November 4, 2022

Ms. Marianne Buenaventura Goldman
Global Impact
Oxfam South Africa & Co-Chair of the Civil Society Forum of the NDB

Ms. Amy Giliam Thorp
Branch Manager
African Climate Reality Project

Ms. Leanne Govindsamy
Head of Corporate Accountability & Transparency
Centre for Environmental Rights

Dear Mmes. Goldman, Thorp and Govindsamy:

SOUTH AFRICA: World Bank Eskom Investment Support Project (EISP) and Flue-Ga Desulfurization (FGD)

I refer to your letter dated 19 October 2022, which was sent on behalf of the Civil Society New Development Bank Forum, the African Climate Reality Project, and the Fair Finance Coalition Southern Africa. To ensure ongoing oversight and monitoring of the installation of flue-gas desulfurization (FGD) technology at the Medupi plant, which is co-financed by the World Bank, you raised several questions to which I proceed to respond below.

1. As co-financier, what are the World Bank's responsibilities, if any, in relation to the failure of Eskom to implement the FGD program – a legal covenant of the loan – before the closure of the Project?

The World Bank loan extended to Eskom to finance the Eskom Investment Support Project (EISP) closed on June 30, 2021. The loan closure marks the end of the World Bank's loan disbursement and usually corresponds with the end of World Bank's supervision of the Project. Yet, the referred legal covenant has provided the World Bank with the right to monitor Eskom's compliance with the implementation of the FGD program even after loan closure. In this context, Eskom provides a bi-annual report on the status of FGD implementation following the approval of the FGD Strategy by the Eskom Board on June 30, 2021.

2. If the World Bank has indeed approved the extension of the FGD implementation deadline, what happens if Eskom fails to install the FGD technology within this extended time period, i.e. by 30 June 2027, or by the base case scenario of 2032? As mentioned above, Eskom itself anticipates the FGD installation to only be complete by 2029.

The World Bank is not aware of any new extension of the current time period, i.e. by June 30, 2027. In its recent July 2022 bi-annual report submission, Eskom has confirmed that the June 2027 installation deadline for FGD will be met. Hence, as per the referred legal covenant, the 30 June 2027 time period is still firm.

3. What would the consequences be for continued delays with the project implementation by Eskom in light of the fact that implementation of the FGD technology is a legal covenant for the World Bank's loan?

If a Borrower does not comply with its contractual commitments under a World Bank's loan agreement, the World Bank normally consults with such Borrower and requires timely and

appropriate corrective measures to be taken. After loan closure, the World Bank may exercise the applicable legal remedy when warranted, considering the extent of possible harm caused by circumstances giving rise to the non-compliance, and the Borrower's commitment and actions to address the identified problems.

4. How does the World Bank plan to do “environmental and social monitoring of the Medupi plant in a reasonable manner” as stipulated in its Restructuring Paper?

The World Bank's environmental and social (E&S) monitoring ends when a project has fully implemented actions required to meet E&S requirements, normally coinciding with loan closure. In cases where there are outstanding E&S actions after loan closure that the Borrower is obligated to address, such as installation of FGD, the World Bank will agree with the Borrower on an action plan and continue monitoring until completion. The World Bank will continue to receive and review bi-annual reporting from Eskom on the implementation status of the FGD Strategy, including reporting on air emissions and compliance with the Air Emissions License (AEL), until satisfied the obligation has been met.

5. Finally, given the extensive delays in Eskom in installing FGD technology, how does the World Bank plan to account for the continued negative environmental, health and social impacts of the Medupi power plant on communities?

The World Bank's E&S requirements that apply to the EISP are the relevant South African national laws and regulations through application of World Bank's Operational Policy 4.00 Piloting Use of Country Systems. Eskom has an existing AEL which sets out the minimum emissions standards that they are obligated to comply. E&S monitoring of compliance with the AEL will continue until obligations under the World Bank's loan agreement to install the FGD are met.

Finally, I would like to thank you for reaching out to us on this important issue. Please note that the World Bank remains committed to continue close monitoring of the installation of FGD technology at the Medupi plant.

Yours sincerely,



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