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SAWEA/SAPVIA Joint Environmental Working Group Position: Fast-tracked NEMA Approvals to Unlock Renewable Energy Capacity in South Africa

Introduction

The South African Wind Energy Association (SAWEA) and the South African Photovoltaic Industry Association (SAPVIA) Joint Environmental Working Group recognises the importance of the country's environmental regulations in safeguarding people and the environment. However, for the renewable energy industry to assist in tackling the ongoing energy crisis by bringing additional power online as quickly as possible, it is crucial to fast-track the development of transmission infrastructure to support economic development and sustain livelihoods.

Background

South Africa initially declared a National State of Disaster in February 2023 "to prevent the possible progression to a total blackout from occurring" and to "augment… measures… to deal with (the) electricity supply constraint"[1]. Although the State of Disaster was revoked in April 2023, to assist in the alleviation of the ongoing energy crisis and contribute towards securing long term energy security, it is imperative to identify hindrances to the deployment of renewable energy generation capacity in South Africa.

The Environmental Impact Assessment (EIA) process is a crucial mechanism in South Africa for safeguarding people and the environment from adverse consequences of infrastructure development, although it is also acknowledged as a time-intensive procedure. Nonetheless, there are numerous solar photovoltaic (PV) facilities and several large-scale wind energy facilities with valid NEMA approvals. However, these projects are currently stranded due to a lack of transmission capacity (for example, all the wind energy projects that bid in REIPPPP Bid Window 6). Therefore, it is apparent that solely expediting the application and decision-making processes for renewable energy generation projects may yield minimal material short-term benefits. Instead, the most significant gains can be achieved by accelerating the development of large-scale *transmission* infrastructure.

Increasing the level of renewable energy penetration will not only assist in alleviating the energy crisis but will also allow South Africa to maintain the course to achieving the Nationally Determined Contributions (NDC) targets for carbon emissions made to the international community. This feeds into the government's plans to achieve a just energy transition by moving towards a cleaner energy mix.

[1] GN 3020 of 2023

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Fast-tracking Transmission Projects: Existing Mechanisms
In 2018, the Department of Forestry, Fisheries, and the Environment (DFFE) issued regulations prescribing a streamlined EIA process for large-scale transmission infrastructure within designated Strategic Transmission Corridors (STCs)[2] and in 2021 this concession was expanded to include Renewable Energy Development Zones (REDZs)[3]. This allowed applications for Environmental Authorisation (EA) for such projects located in STCs and REDZs to be evaluated via a quicker Basic Assessment (BA) process with reduced decision-making timelines.

In 2022, the DFFE further issued regulations for a fast-tracked registration process for transmission infrastructure and substations in low and medium sensitivity areas in STCs based on compliance with a new "Standard for the Development and Expansion of Power Lines and Substations within Identified Geographical Areas"[4].

Additionally, in 2019, the DFFE promulgated Generic Environmental Management Programmes (EMPrs) powerlines and substation infrastructure[5], acknowledging that impacts of such infrastructure can be readily anticipated and mitigated.

Challenges with Existing Mechanisms
Despite these mechanisms' positive impact on accelerating transmission infrastructure development, they are associated with several practical challenges that limit their effectiveness:

- The fast-tracked BA process for transmission infrastructure and the transmission infrastructure registration process apply only to projects where the greater part is located within STCs or REDZ.
- Both the fast-tracked BA process and registration process require a pre-negotiated powerline route before applications are submitted, which is not required for regular EIA processes for powerlines outside STCs and REDZs.
- The Powerline Registration Standard is complex and limited to projects in areas of low and medium environmental sensitivity, an unrealistic threshold for infrastructure spanning hundreds of kilometres.

Suggested Enhancements to Existing Mechanisms
To enhance the efficiency and broaden the scope of measures already established by the DFFE to expedite the development of transmission infrastructure, the following supplementary measures should be considered during the electricity crisis, which have the backing of the SAWEA/SAPVIA Joint Environmental Working Group:

- Reformulate (i.e. amend) existing Regulations that exclude activities identified in Section 24(2)(a) and (b) of NEMA related to transmission projects (including associated activities) from the requirement to apply for EA as a "Transmission Infrastructure Norm" that specifies verification of the sensitivity of themes identified in the Environmental Screening Tool by qualified, independent specialists, rather than adherence to the Standard. This could use the draft exemption for "the development and expansion of solar PV facilities from the requirement to obtain environmental authorisation based on the Solar Exclusion Norm"[6] and the draft exemption for "the development and expansion of battery storage facilities from the requirement to obtain environmental authorisation based on the Battery Storage Exclusion Norm"[7] as models. As per the solar PV and battery storage exclusions, the registration process should be guided and supported by sensitivity verification from

[2] GN 113 of 2018
[3] GN 145 of 2021
[4] GN 2313 of 2022
[5] GN 435 of 2019
[6] GN 3286 of 2023
[7] GN 3308 of 2023

registered, independent specialists and Environmental Assessment Practitioners (EAPs) through self-certification[8], and projects should comply with generic EMPrs.

- Extend the applicability of the revised transmission infrastructure registration process to areas of low, medium, ***and high*** sensitivity (i.e. excluding areas verified to be of *very high* sensitivity or specialist defined "No-Go" areas), throughout the country (with the requirement for specialists to specify specific mitigation measures in these circumstances – as proposed in the solar PV and battery exclusions), ***or*** broaden the application of the amended registration process ***and*** the fast-tracked EIA (BA) process to infrastructure in areas throughout the country, instead of exclusively within STCs and REDZs.
- Allow the registration (through an amended transmission registration process) or approval (through a fast-tracked EIA [BA] process) of corridors for powerlines instead of the necessity of negotiating a route before registration/application for EA, subject to certain conditions (specifically that the infrastructure is developed within the registered/authorised corridor and outside of areas identified by specialists as very high sensitivity or "no-go" areas within the corridor). This would enable the time-consuming land negotiation/expropriation procedures to run concurrently or after the authorisation/registration processes and allow for flexibility in powerline routing following the authorisation/registration process.

Other Mechanisms

Although the following measures are not expected to significantly accelerate the development of renewable energy facilities in the short term, the DFFE could explore the following options to enhance the pipeline of renewable energy generation projects in the medium to long term:

- Broaden the application of the fast-tracked EIA (BA) process for generation projects to areas throughout the country, instead of exclusively within REDZs;
- Promulgate draft legislation intended to exclude listed activities associated with Solar PV infrastructure and battery storage facilities in lower sensitivity areas throughout the country from the NEMA authorisation process, subject to specialist sensitivity verification and compliance with new Generic EMPrs; and
- Consider legislation to exclude listed activities associated with wind energy facilities in lower sensitivity areas, (possibly) within strategic development areas such as (for example) within a certain distance of substations with capacity, subject to specialist sensitivity verification (including 12-month bird and bat monitoring) and compliance with a new Generic EMPr.

Conclusion

Sustainable development and a stable electricity supply are essential to support economic development and sustain livelihoods. It is evident through the most recent REIPPP Bid Window that one of the biggest hurdles to bringing new renewable energy projects online is the grid constraints present in the regions of the country with the highest level of wind and PV resources. Additionally, in order to achieve commitments made to reduce emissions, increase the level of renewable energy penetration and moving towards a just energy transition, government must prioritise infrastructure development for the grid to address the current energy crisis and ensure a better future for South Africa.

The SAWEA and SAPVIA believes that fast-tracking transmission infrastructure development is crucial to alleviate South Africa's energy crisis by creating transmission capacity for new Wind and PV plants to connect to the grid. We call on the government to prioritise infrastructure development and use all available mechanisms to fast-track the registration/EIA processes for transmission infrastructure projects, including those located outside of STCs. Additionally, we recommend allowing for more flexible powerline routing to support infrastructure development.

[8] Self-Certification is a monitoring method where a Registered Entity completes a self-assessment of its compliance with applicable Standards and Requirements, and submits substantiating evidence validating compliance.