

12 August 2020

MEDIA STATEMENT


DMRE WELCOMES THE HIGH COURT ORDER IN THE MATTER BROUGHT TO COURT BY THE CITY OF CAPE TOWN


The Department of Mineral Resources and Energy welcomes the judgment handed down by Judge Justice Wendell in the Gauteng Division of the High Court in Pretoria. In the application to the court, the City of Cape Town sought to argue that it has a constitutional right to procure energy in any manner it deems best without a determination by the Minister.


The Minister of Mineral Resources and Energy successfully argued that the dispute that the court was asked to adjudicate upon constituted an intergovernmental dispute between organs of State. The Minister further argued that the application was premature as the applicant had not complied with the requirements of section 41 of the Constitution and the provisions of the Intergovernmental Relations Framework Act 13 of 2005.

In line with the Minister's argument, the court ordered that the disputes between the parties in court be referred back to the parties in terms of section 41(3) of the Constitution. This section of the Constitution states that an organ of state involved in intergovernmental dispute "must make every reasonable effort to settle the dispute by means of mechanisms and procedures provided for that purpose, and must exhaust all other remedies before it approaches a court to resolve the dispute".

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With this order, the court has affirmed the principles of co-operative government. The Minister has always maintained that stakeholders in the industry must effectively engage one-another on an ongoing basis and avoid litigation.

The Court noted that the City embarked on this litigation without taking any of the steps provided for in the Intergovernmental Relations Framework Act and that the City has failed in its duty as an organ of State to avoid litigation and has only paid lip service to this obligation.

The Department concurs with the views expressed by the Court that the challenges facing our country as a developmental state, can best be addressed through a concerted effort by government in all spheres working together.

Issued by the Department of Mineral Resources and Energy

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