

CTF losses PPA appeal

The Supreme Court of Appeal has dismissed the case brought by the Coal Transporters Forum (CTF) to set aside power purchase agreements (PPA's) with preferred bidders.



Ntombifuthi Ntuli, CEO of Sawea

CTF had argued that the court should declare null and void all Round 4 PPAs signed by Eskom with independent power producers (IPPs) at the time because it claimed that the National Energy Regulator of SA (Nersa) had not properly approved the section 34 authorisation which was a prerequisite for the IPP process. Secondly, CTF sought to interdict the conclusion by Eskom of the then pending PPAs with 3 bid window 4 IPPs, which had not been signed when they argued their case. CTF further argued in its founding affidavit that the renewables programme would impact negatively on Eskom's financial performance.

South African Wind Energy Association (Sawea) CEO Ntombifuthi Ntuli welcomed this final judgement issued by the Supreme Court of Appeal. "The first judgement was handed by the High Court in March 2019, two years after the first application. The CTF was refused leave to appeal in the High Court (June 2019) and have now also lost this petition for leave to appeal to the Supreme Court of Appeal. The courts have each time dismissed the applications, with cost of legal counsel payable by CTF to each of the respondent entities, including Eskom, Nersa, the minister of energy and the IPP respondents, all of which joined together in opposing CTF. The timeframe to petition the Constitutional Court for leave to appeal, has now passed, which finally closes the door on this case".

In his judgment handed down by the High Court Judge PA Meyer in March 2019, he confirmed that Nersa and the Department of Energy followed all correct procedures before finalising and signing the PPAs.