

## NEWS NOTE

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### **WESTINGHOUSE PURSUES CHALLENGE OF KOEBERG CONTRACT**

**CAPE TOWN, September 29, 2014** -- [Westinghouse Electric Company](#) intends to continue pursuing its challenge of Eskom's decision to award a tender for the replacement of steam generators at the Koeberg Nuclear Power Plant by launching an expedited review application in the South Gauteng High Court.

Until then, Westinghouse will continue to pursue its legal rights in an attempt to secure key outstanding documents from Eskom, which it has failed to provide following the court order on 5 September 2014, which ordered Eskom to provide all relevant documentation that was used to form the basis of Eskom's decision to award the tender to Areva.

Based on documentation which Eskom has provided to date, Westinghouse maintains its stance that Eskom's decision was flawed on various levels and should be set aside by the court. Westinghouse's appreciation is that there have been fundamental breaches of Eskom's obligations to administer a fair and transparent tender process and, while Eskom has in place well-documented procurement processes, these processes were departed from to take into account certain "strategic issues", which allegedly favoured Areva – but were never part of the evaluation criteria – and on which Westinghouse was never given the opportunity to comment in line with a fair and transparent tender process.

Westinghouse Electric Company is the world's pioneering nuclear energy company and is a leading supplier of nuclear plant products and technologies to utilities throughout the world. Westinghouse supplied the world's first pressurized water reactor in 1957 in Shippingport, Pa., U.S. Today, Westinghouse technology is the basis for approximately one-half of the world's operating nuclear plants, including more than 50 percent of those in Europe.

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### NOTES TO EDITORS:

In advance of the expedited review, and on 28 August 2014, Westinghouse launched an urgent application in the High Court for two categories of relief. Firstly, Westinghouse sought interim interdictory relief against Eskom and Areva in an endeavour to prevent the signing and/or implementation of any contract concluded pursuant to the tender process. Secondly, Westinghouse sought relief compelling Eskom to provide it with all relevant documentation leading up to and forming the basis of its decision to award the tender to Areva.

At that stage, Westinghouse only had the benefit of information from officials within Eskom which suggested that the award to Areva was improperly made. In response to the versions of these Eskom officials, Mr Matshela Koko, Eskom's acting Group Executive for Technology and Commercial, filed an answering affidavit on behalf of Eskom in which these allegations were denied. Eskom also provided confirmatory affidavits by Mr Zola Tsotsi, the chairperson of Eskom's board of directors; Mr Collin Matjila, Eskom's acting chief executive and Ms Neo Lesela, the chairperson of Eskom's board tender committee.

In light of Mr Koko's factual assertions, Westinghouse withdrew its application for interim interdictory relief. Westinghouse did not and does not accept the version of Mr Koko. Indeed the annexures to Mr Koko's affidavit confirmed suspicions that the decision to accept Areva's bid, and the concomitant decision to reject Westinghouse's bid, was fundamentally flawed.

On 5 September 2014, Westinghouse obtained an order by The Honourable Mr Justice R Sutherland in terms of which Eskom were obliged to provide Westinghouse's attorneys with access to copies of all relevant documents leading up to and forming the basis of Eskom's decision to award the tender to Areva. This was to be done within five calendar days of the court order.

On 17 September 2014, the Deputy Judge President of the South Gauteng High Court appointed the Honourable Mr Justice T M Masipa to case manage Westinghouse's review application, with a view to an expedited hearing of the application.

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