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To whom it may concern,

TSHWANE MUNICIPAL POWER STATION LEASES, 2023

THE FREE MARKET FOUNDATION RECOMMENDS THAT THE POWER STATIONS BE WHOLLY
PRIVATISED OR SUBJECT TO STATEPROOF LEASES.

ABOUT THE FREE MARKET FOUNDATION

1. The Free Market Foundation (FMF), founded in 1975, promotes and defends the principles of individual liberty, private property, free enterprise, and limited constitutional government. The FMF primarily engages with the policy environment by informing the public of the benefits of liberalisation and generating pressure on political authorities to lessen and cease their interference in market exchanges and private affairs.

PROBLEM STATEMENT

General

2. South Africa's electricity crisis is an existential threat to the country's socio-economy, but at the same time is not a complex or an unsolvable problem. In fact, it is a simple problem with a simple solution, in the way of which stand only artificial, essentially political, impediments.
3. If there is a good for which high demand exists – such as electricity – there is an inherent and powerful incentive for the market to supply that demand. In the absence of state interference in South Africa's

electricity market, suppliers would emerge as a matter of course. The electricity market is not a free one.

4. Due to this lack of freedom in the electricity market, distortions have resulted. One of the primary distortions is that of price. The price of electricity is politically regulated and prescribed, and not subject to ordinary market forces. Throughout the history of South Africa's statist electricity sector, therefore, the price of electricity has been different (likely much lower) than it would have been in the absence of state interference.
5. Economic theory teaches that where a price is fixed at a level lower than what the price would organically be on the open market, a likely outcome would be a shortage in the supply of the good or service. This is intuitive. If there is a high demand for X, and the price of X is low, then the quantity of X available will be depleted in short order. In the open market, high demand is met with higher prices, which allows supply to keep up with demand.
6. In a monopolised electricity sector like South Africa's, however, the power utility cannot be allowed to charge market prices because it is not subject to market competition. Allowing Eskom or municipalities to levy market prices for electricity would be akin to placing South Africans in a hostage situation, where their only 'choice' is to comply or to be without electricity. In an open market, providers who are too highly priced would lose custom to lower priced competitors.
7. The other answer in an open market to a situation where demand is higher than supply, is simply to increase supply.
8. The supply of electricity in South Africa cannot be freely increased because it is subject to various statist and non-market considerations, including the political demands of Western governments concerning the use of fossil fuels, legislation and regulations that makes it impossible even for the state monopoly provider to freely construct new power stations as and when necessary, and the obvious

prohibition on the private sector entering the market and supplying more electricity to the grid on a source agnostic basis.

9. South Africa is living through this reality of an electricity shortage that is the result of state interference in the form of a statutory monopoly in both the central and municipal spheres of government, in the form of regulated and prescribed prices of electricity, and in the form of an artificial limit on supply.
10. As the South African state in all spheres has all but run out of capacity and resources to pursue its stated goal of being a 'developmental state,' it is evident that significantly increased private sector involvement in the supply of electricity is necessary.
11. The simple solution to South Africa's electricity crisis is to generate additional electricity, and to make that electricity available on the basis of market-related prices.

Tshwane

12. It is heartening that the City of Tshwane has called for public participation on its intention to lease the Rooiwal and Pretoria West power stations to private sector partners. The FMF supports the sentiment at the heart of this initiative wholeheartedly.
13. Nonetheless, the FMF is concerned that the initiative appears to (unduly) assume the premise that the power stations must remain the owned property of the City.
14. The FMF is further concerned that the initiative appears to assume a posture of 'business as usual' or, to put it otherwise, to assume that South African politics, moreover municipal politics, is generally sensible and benign.
15. Both of these assumptions are fraught with unacceptable risk.
16. These risks include a future City government interfering in the operation of the power stations or revoking the leases for partisan reasons.

AN ALTERNATIVE APPROACH

Privatisation

17. The FMF therefore believes that outright privatisation of the Rooiwal and Pretoria West power stations should instead be pursued.
18. The City can include a restrictive condition in the sale of the properties that requires the power stations to be used as such (as power stations) for a specified period of time (perhaps the 40-year period envisioned by the lease). The condition can even specify what electricity output the properties must generate to satisfy the agreement.
19. Privatisation is to be preferred because it will remove partisan considerations entirely from the decision-making process of the operators of the power stations – as it should be. The operators must be focused exclusively on their area of expertise – the generation of electricity on a source agnostic basis – and lucratively pushing that electricity back into the grid. The profit motive is the greatest driver of human prosperity in history.

A stateproof lease

20. If outright privatisation is not preferred, the City must construct the lease agreement in a stateproof fashion. The incumbent administration of the City knows better than most that persons with ulterior motives could find themselves in control of the City government at any point, and this should not be allowed to undermine the initiative.
21. Firstly, the lease period of 40 years is inadequate, and ought to be extended to at least 99 years. This places the expiry of the lease well outside of the current 'era' of South African politics with all its associated malices and score-settling. It also gives the operators the peace of mind that they will be able to generate a considerable return on investment over several generations.

22. Secondly, the lease must be renewable at the unilateral instance of the lessees, and not cancellable by the City without good and provable reason.
23. Thirdly, the lease must specify that the lessees are the ones to manage and operate (on a source agnostic basis) the power stations, not the City. This should be a lease in its true sense, not a service level agreement.
24. Fourthly, the lease must oblige the City to intervene on behalf of the lessees in any conflict instigated by the provincial or central government to hinder or otherwise harm the lessees' operation of the power stations, provided the lessees have acted within the formal bounds of the law.

RECOMMENDATION

25. The Free Market Foundation supports the initiative to radically expand private sector involvement in the generation of electricity in the City of Tshwane, but recommends that this can be done in a better and significantly less risky way, by privatising the Rooiwal and Pretoria West power stations outright, or crafting the lease agreements in a consciously stateproof fashion.