

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO.: 60924/21

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: NO

Date: 12 August 2025

E van der Schyff

In the matter between:

**THE NATIONAL ENERGY REGULATOR
OF SOUTH AFRICA**

Applicant

and

TETRA4 (PTY) LTD

Respondent

In re:

TETRA4 (PTY) LTD

Applicant

and

THE NATIONAL ENERGY REGULATOR

First Respondent

THE MINISTER OF MINERAL RESOURCES AND ENERGY

Second Respondent

JUDGMENT

Van der Schyff J

- [1] The applicant, NERSA, filed an application for leave to appeal against the judgment and order handed down on 2 May 2025.
- [2] The application for leave to appeal is essentially based on the applicant's contention that this court erred in its interpretative exercise and the manner in which it applied the provisions of the Gas Act 48 of 2001 (the Gas Act). The grounds of appeal essentially embody a repetition of NERSA's case when the application was initially heard. I handed down a written judgment explaining the reasons underpinning the order. There is no need to repeat those reasons here.
- [3] After considering the grounds of appeal raised and the applicable law, particularly the definition of the term 'gas' as contained in the Gas Act, I am not of the opinion that the jurisdictional factor to grant leave to appeal as prescribed in section 17(1)(a)(i) of the Superior Courts Act 10 of 2013, is met.
- [4] The term 'gas' is defined to mean "all hydrocarbon gases transported by pipeline, including natural gas". No additional definition defines 'natural gas', and it must therefore be read as 'natural gas transported by pipeline.' The judiciary's function is separate from the legislature's function. If, through scientific development, the need arises to regulate aspects of the gas industry outside the ambit of the 'piped gas industry' that is currently regulated through the Gas Act, the legislature must enact the necessary legislation to regulate those aspects. I am, therefore, not of the opinion that 'the appeal would have a reasonable prospect of success'.
- [5] This leaves the question as to whether some other compelling reason exists why the appeal should be heard. No conflicting judgments exist on the point. The process of amending the Gas Act is in progress. The mere fact that complex issues had to be

considered does not in itself constitute a compelling reason for an appeal to be heard.

ORDER

In the result, the following order is granted:

1. The application for leave to appeal is dismissed with costs on scale C. The costs include the costs of two counsel.



E van der Schyff
Judge of the High Court

Delivered: This judgment is handed down electronically by uploading it to the electronic file of this matter on CaseLines.

For the applicant:

Adv. M. Oosthuizen SC

With:

Adv. J. Rust SC

Instructed by:

Faskens Incorporated

For the first respondent:

Adv. N. Maenetjie SC

With:

Adv. R. Tshetlo

Adv. S. Mashiane

Instructed by:

Cheadle, Thompson & Haysom
Incorporated

Date of the hearing:

4 August 2025

Date of judgment:

12 August 2025