

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

**CASE NUMBER: 46778/18**

**In the case between:**

**AFRISAKE NPC**

**FIRST APPLICANT**

**ADRIAAN MARTHINUS APPELGRYN-SIEBERT**

**SECOND APPLICANT**

**and**

**ESKOM HOLDINGS SOC LTD**

**FIRST RESPONDENT**

**MUSINA LOCAL MUNICIPALITY**

**SECOND RESPONDENT**

**THE NATIONAL ENERGY REGULATOR OF  
SOUTH AFRICA ("NERSA")**

**THIRD RESPONDENT**

**THE MINISTER OF COOPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

**FOURTH RESPONDENT**

**THE MINISTER OF FINANCE**

**FIFTH RESPONDENT**

**THE MEMBER OF THE EXECUTIVE COMMITTEE  
FOR LOCAL GOVERNMENT, LIMPOPO PROVINCE**

**SIXTH RESPONDENT**

**THE MEMBER OF THE EXECUTIVE COMMITTEE  
FOR FINANCE IN THE LIMPOPO PROVINCE**

**SEVENTH RESPONDENT**

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IN THE HIGH COURT OF SOUTH AFRICAGAUTENG DIVISION, PRETORIA

Case No:

46778/18

In the matter between:

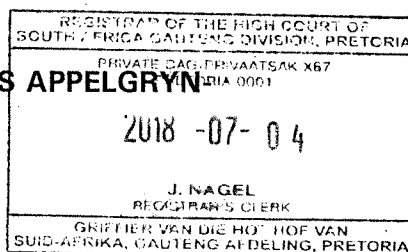
**AFRISAKE NPC**

First Applicant

**ADRIAAN MARTHINUS APPELGRYN  
SIEBERT**

Second Applicant

and

**ESKOM HOLDINGS SOC LTD**

First Respondent

**MUSINA LOCAL MUNICIPALITY**

Second Respondent

**THE NATIONAL ENERGY REGULATOR  
OF SOUTH AFRICA ("NERSA")**

Third Respondent

**THE MINISTER OF COOPERATIVE  
GOVERNANCE AND TRADITIONAL AFFAIRS**

Fourth Respondent

**THE MINISTER OF FINANCE**

Fifth Respondent

**THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR LOCAL GOVERNMENT,  
LIMPOPO PROVINCE**

Sixth Respondent

**THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR FINANCE IN THE  
LIMPOPO PROVINCE**

Seventh Respondent

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**NOTICE OF MOTION**

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**PART A1:**

**PLEASE TAKE NOTICE** that the Applicants intends to apply to the above Honourable Court on **Thursday 5 July 2018 at 14h00** or as soon thereafter as counsel may be heard, for an order in the following terms:

1. Dispensing with the ordinary rules relating to forms, service and time periods and permitting this application to be heard as one of urgency in terms of the rule 6(12) of the Uniform Rules of this Honourable Court;
2. That the First Respondent be interdicted and restrained from implementing its decision to interrupt or discontinue the electricity supply to the Second Respondent pending the adjudication of Part A2 of this application;
3. That pending the adjudication of Part A2 of this application the Respondents, or any one of them, intending to oppose the relief sought in Part A2 of this application, be ordered to file their

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intention to do so by 9 July 2018 and their answering papers by not later than 14h00 on 13 July 2018 and the Applicants to file their replying affidavits (if any) by not later than 19 July 2018 by 12h00 before closing of the urgent roll;

4. That the Applicants enrol this application for hearing in the urgent court of 24 July 2018 of Part A2 of this application.

**PART A2:**

**PLEASE TAKE NOTICE** that the Applicants intends to apply to the above Honourable Court on **Tuesday 24 July 2018 at 10h00** or as soon thereafter as counsel may be heard, for an order in the following terms:

1. That the Applicants' non-compliance with the rules of Court relating to service and time periods be condoned and that the relief sought under Part A2 be heard as one of urgency in accordance with Rule 6(12) of the Uniform Rules of this Court;
2. That the First Respondent be interdicted and restrained from implementing its decision to interrupt the electricity supply to the Second Respondent pending the adjudication of the relief sought under Part B of this application;



3. That any of the Respondents who intend to oppose the application are ordered to pay the costs of the Applicants jointly and severally, including the costs of two counsel;
4. That the Applicants be granted further and/or alternative relief.

**TAKE FURTHER NOTICE** that the Applicants have appointed the address of their attorneys as listed below as the address at which they will receive service of any notices or answering affidavits filed.

**TAKE FURTHER NOTICE** that if any of the Respondents intend to oppose Part A2 of the relief sought, they shall notify the Applicants' attorneys in writing on or before **Monday 9 July 2018** and:

- (a) In the notice referred to above, appoint an address in terms of Rule 6(5)(b) at which they will accept notice and service of all documents in these proceedings;
- (b) Delivering their Opposing Affidavits in accordance with the order made in terms of Part A1.

**PART B:**

**TAKE FURTHER NOTICE** that the Applicants intend to apply to the above Honourable Court on a date to be arranged with the Registrar or the Honourable Deputy Judge President for an order in the following terms:

1. Declaring that the decision of the First Respondent to interrupt or discontinue the electricity supply to the Second Respondent is unconstitutional and unlawful and invalid;
2. Reviewing and setting aside the decision of the First Respondent to interrupt or discontinue the electricity supply to the Second Respondent;
3. Declaring that the failure by the Respondents to exercise their powers and for this purpose to cooperate with one another so as to ensure that the Second Respondent meet its financial obligations in respect of payment towards the First Respondent for the supply by the First Respondent to the Second

Respondent of electricity is in conflict with section 41 of the Constitution and legislative provisions and principles of cooperative government and intergovernmental relations of the Constitution, the Intergovernmental Relations Framework Act, no. 13 of 2005; Chapter 13 of the Municipal Finance Management Act and section 44 of the Municipal Finance Management Act and the Electricity Regulation Act, No 4 of 2006.

4. Ordering the Respondents to take the necessary steps and exercising their powers and obligations in terms of Chapter 13 of the Municipal Finance Management Act with the view to resolve the financial difficulties of the Second Respondent, and in particular its failure to comply with its financial obligations towards the First Respondent, alternatively if for any reason the Provincial Executive cannot or does not adequately exercise its powers to perform the functions referred to in Section 139(4) or 139(5) of the Constitution, in such an event the Fifth Respondent is ordered to exercise the necessary powers and functions in terms of Section 150 of the Municipal Finance Management Act;
5. Interdicting the First Respondent from interrupting or

disconnecting the electricity supply to the Second Respondent for the purpose of compelling the Second Respondent to pay its arrear debts towards the First Respondent;

6. Ordering the First and Second Respondents to pay the Applicants' costs, jointly and severally including the costs of two counsel;
7. Granting the Applicant's further and/or alternative relief.

**TAKE NOTICE FURTHER** that the First Respondent is called upon to show cause why the decision to interrupt or discontinue the electricity supply to the Second Respondent should not be reviewed and set aside;

**TAKE FURTHER NOTICE** that the First Respondent is called upon to dispatch to the Registrar of this Honourable Court within 15 (fifteen) days after receipt of this application, the record pertaining to its decision and the reasons for its decision.

**TAKE FURTHER NOTICE** that if any of the Respondents intend to oppose Part B of this application, they are required:

1. to notify the Applicants' attorneys and the Registrar of this

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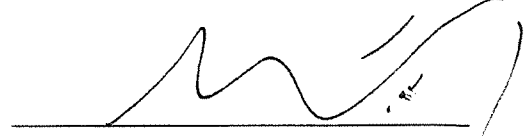
Honourable Court within 15 (fifteen) days after service of this Notice of Motion in terms of Rule 53(4);

2. to appoint an address in terms of Rule 6(5)(b) as an address at which they will accept notice and service of all documents in these proceedings;
3. within 30 (thirty) days after expiry of the time period referred to in Rule 53(4) to deliver their Answering Affidavit(s) if any.

**TAKE FURTHER NOTICE** that if no notice of intention to oppose is received in respect of the relief sought under Part B of this application, it will be enrolled for hearing on a date to be arranged with the Registrar.

**KINDLY TAKE FURTHER NOTICE** that the accompanying Founding Affidavit attached to this Notice of Motion, deposed to by **PIET LE ROUX**, and the affidavit of the Second Applicant together with annexures thereto, will be used in support of the relief claimed in Parts A and B of this application.

SIGNED AT PRETORIA ON THIS THE 4<sup>th</sup> DAY OF JULY 2017.



**KRIEK WASSENAAR & VENTER INC.  
ATTORNEYS FOR THE APPLICANTS**

FIRST FLOOR  
NOREX HOUSE  
79 RAUCH AVENUE  
GEORGEVILLE  
PRETORIA

REF: P. WASSENAAR/J JORDAAN/QBO387

TEL: 012 656 7566

E-MAIL ADDRESS: jani@kriekprok.co.za

**TO: THE REGISTRAR OF ABOVE HONOURABLE COURT  
PRETORIA**

**AND TO: THE FIRST RESPONDENT**

BY E-MAIL at the following addresses:

**OFFICE OF THE SENIOR MANAGER**

**LPExecActionTeam@eskom.co.za**

Emails used in previous applications

E-pos: publicnwr@eskom.co.za

E-pos: NoorbhFB@eskom.co.za

E-pos: KettleME@eskom.co.za

E-pos: TumaneA@eskom.co.za

E-pos: BarutiME@eskom.co.za

**Legal Department**

E-pos: brownli@eskom.co.za

**Physical Address:**  
Megawatt Park, Maxwell Drive,

Sunning Hill Extension 3,  
Gauteng.

**AND TO: THE SECOND RESPONDENT**

BY E-MAIL: [info@musina.gov.za](mailto:info@musina.gov.za)  
c/o Municipal Manager  
BY E-MAIL: [musinamm@limpopo.co.za](mailto:musinamm@limpopo.co.za)

**Physical Address:**

21 Irwin Street,  
Musina,  
Limpopo Province

**AND TO: THE THIRD RESPONDENT**

BY E-MAIL:  
**OFFICE OF THE CHIEF EXECUTIVE OFFICER**  
[izanne.martins@nersa.org.za](mailto:izanne.martins@nersa.org.za)

Faks: 012 401 4700

Office of the Chief Financial Officer

[juanita.vermaak@nersa.org.za](mailto:juanita.vermaak@nersa.org.za)

Faks: 012 401 4700

**Legal Department**

[sandile.dlamini@nersa.org.za](mailto:sandile.dlamini@nersa.org.za)

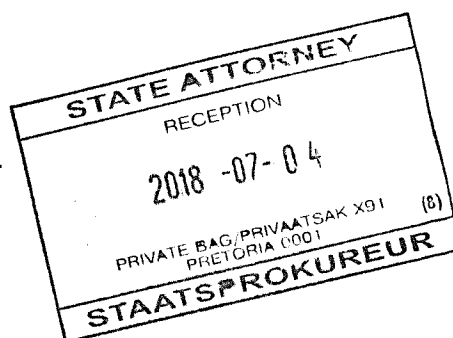
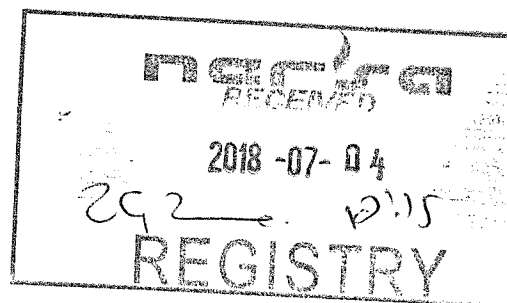
Faks: 012 401 4700

**Physical Address:**

526 Madiba Street,  
Arcadia, Pretoria.

**AND TO: THE FOURTH RESPONDENT**

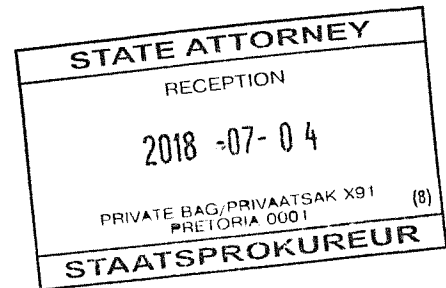
c/o The State Attorney,  
SALU Building,



316 Thabo Sehume Street,  
Pretoria.

By Hand

**AND TO: THE FIFTH RESPONDENT**  
c/o The State Attorney,  
SALU Building,  
316 Thabo Sehume Street,  
Pretoria.  
By Hand



**AND TO: THE SIXTH RESPONDENT**  
c/o The State Attorney,  
SALU Building,  
316 Thabo Sehume Street,  
Pretoria.  
By Hand



**AND TO: THE SEVENTH RESPONDENT**  
c/o The State Attorney,  
SALU Building,  
316 Thabo Sehume Street,  
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By Hand





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Third Respondent

**THE MINISTER OF COOPERATIVE  
GOVERNANCE AND TRADITIONAL AFFAIRS**

Fourth Respondent

**THE MINISTER OF FINANCE**

Fifth Respondent

**THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR LOCAL GOVERNMENT,  
LIMPOPO PROVINCE**

Sixth Respondent

**THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR FINANCE IN THE  
LIMPOPO PROVINCE**

Seventh Respondent

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**FOUNDING AFFIDAVIT**

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I, the undersigned,

**PIET LE ROUX**

do hereby declare under oath as follows:

1.

1.1. I am an adult male and the Chief Executive Officer of Afrisake NPC (registration number 2012/043725/08), being the First Applicant in this matter. The First Applicant is also known also in English as "AfriBusiness".

1.2. The facts set out in this affidavit fall within my personal knowledge save where the context indicates otherwise or has been made known to me in the course of the business of the First Applicant and I respectfully submit that I am competent to make this affidavit. Where I refer to the Second Applicant, I refer to his confirmatory and supporting affidavit attached hereto.

1.3. I am authorised to depose to this affidavit on behalf of the First Applicant.

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- 1.4. To the extent that this affidavit contains matter of a legal nature, the First Applicant rely on the advice of its legal representatives, which I believe to be correct.

2.

**THE APPLICANTS:**

- 2.1. The First Applicant is a non-profit company registered as such in terms of the company laws of the Republic of South Africa with registered address and principal place of business at the corner of D.F. Malan Avenue and Union Street, Kloofsig, Centurion.
- 2.2. The First Applicant is a business interest organisation with more than 12 000 members countrywide, consisting of a variety of businesses and proprietors or employees of businesses in the form of corporate businesses and other forms. It also has several individual members supporting its cause.
- 2.3. The First Applicant was established in 2011 and formally incorporated and registered in terms of the Companies Act in 2012.



- 2.4. Its main objective is the protection of constitutional rights and property rights. It also lobbies and promotes the free market and economic prosperity in order to create a favourable business environment in the interest of its members, as well as in the interest of the common good. In order to give effect to its main object, it also provides support to its members, which includes legal support.
- 2.5. Its vision and mission statement of which a part is referred to above can be gleaned from the homepage of its website at [www.afrisake.co.za](http://www.afrisake.co.za).
- 2.6. The Second Applicant is **ADRIAAN MARTHINUS APPELGRYN-SIEBERT**, an adult male and medical practitioner who practices as such at 7 Limpopo Avenue, Musina. The Second Applicant is a member of the First Applicant and is joined in this application in his personal capacity as medical practitioner, rendering medical services to various patients in the district of Musina and has a direct interest in this application and who supports the relief sought. I refer to the confirmatory affidavit of the Second Applicant attached hereto.



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3.


**THE RESPONDENTS:**

- 3.1. The First Respondent is **ESKOM HOLDINGS SOC LIMITED** (also referred to as "Eskom "), a public company and State-owned company incorporated in accordance with the company laws of the Republic of South Africa, with principal place of business situated at Megawatt Park, Maxwell Drive, Sunning Hill Extension 3, Gauteng. First Respondent is also an organ of state by virtue of section 239 of the Constitution of 1996.
- 3.2. The Second Respondent is **MUSINA LOCAL MUNICIPALITY**, established in terms of the Local Government: Municipal Structures Act, no. 117 of 1998, with its principal office situated at 21 Irwin Street, Musina, Limpopo Province. Its official email address according to its official website is [info@musina.gov.za](mailto:info@musina.gov.za).
- 3.3. The Third Respondent is **THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA ("NERSA")**, with principal place of business at 526 Madiba Street, Arcadia, Pretoria.
- 3.4. In terms of Section 3 of the Electricity Regulation Act, No. 4 of 2006 ("ERA") NERSA is the regulator and custodian and enforcer of the regulatory framework provided by ERA.



- 3.5. The Fourth Respondent is **THE MINISTER OF COOPERATIVE GOVERNANCE TRADITIONAL AFFAIRS** and responsible Minister of the Department of Cooperative Governance and Traditional Affairs ('COGTA'), situated at 87 Hamilton Street, Arcadia, Pretoria and care of the State Attorney, Pretoria, SALU Building, 316 Thabo Sehume Street, Pretoria.
- 3.6. According to COGTA's official website its mandate are founded in the Constitution. A copy of an extract from its website is attached as annexure "**FA1**" setting out its mandate, vision, mission and values.
- 3.7. Some of the strategic goals of COGTA are to ensure that all municipalities perform their basic responsibilities and functions without compromise, supporting the delivery of municipal services to the right quality and standard, promote good governance, transparency and accountability, ensuring sound financial management and accounting. Amongst others, its goal is to facilitate cooperate governance and support all spheres of government through developing appropriate policies and legislation to promote integration and government's development programme and service delivery.

- 3.8. The Fifth Respondent is **THE MINISTER OF FINANCE OF THE REPUBLIC OF SOUTH AFRICA**, c/o The State Attorney, SALU Building, 316 Thabo Sehume Street, Pretoria, who is joined herein in his capacity as Head of the National Treasury in terms of Section 5(1)(a) of the Public Finance Management Act, No. 1 of 1999 ("the PFMA"). One of the functions of the National Treasury is a Municipal Financial Recovery service in terms of Section 157 and 158 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 ("MFMA") referred to further herein.
- 3.9. The Sixth Respondent is **THE MEMBER OF THE EXECUTIVE COMMITTEE FOR LOCAL GOVERNMENT IN THE LIMPOPO PROVINCE**, c/o The State Attorney, SALU Building, 316 Thabo Sehume Street, Pretoria who is joined herein in view of certain powers and functions he/she has in terms of the MFMA.
- 3.10. The Seventh Respondent is **THE MEMBER OF THE EXECUTIVE COMMITTEE FOR FINANCE AND TREASURY IN THE LIMPOPO PROVINCE**, c/o The State Attorney, SALU Building, 316 Thabo Sehume Street, Pretoria who is joined herein in view of certain powers and functions he has in terms of the MFMA.

**THE PURPOSE OF THIS APPLICATION:**

## 4.

- 4.1. In Part A of this application the Applicants seek an *interim* interdict restraining the First Respondent from interrupting or disconnecting electricity to the Second Respondent, pending the outcome of Part B of this application.
- 4.2. Primarily only the First Respondent is affected by the relief sought in Part A of the Notice of Motion.
- 4.3. As a result of the degree of urgency service for purposes of part A of the Notice of Motion is effected by email and delivery by hand on the respondents. Where email addresses are used, such was established of responsible persons concerned by the Applicants' attorney of record. Normal service for purposes of Part B will be undertaken.
- 4.4. This application was triggered by virtue of the fact that on 29 June 2018 Eskom published as *Final Decision Notice* in a local newspaper, "*The Soutpansberger*", giving notification of an intended interruption and depending on the results of the first



measure a contemplated disconnection of electricity supply to the town of Musina. A copy of this final decision notice is attached hereto as **Annexure "FA2"**.

4.5. The aforesaid notice was preceded by another notice dated 18 May 2018 affording interested parties and the public to make representations or submissions why Eskom should not proceed with the intended interruption and/or disconnection. A copy of this notice is attached as annexure **"FA3"**.

4.6. Because of the short notice of the communication of a final decision on 29 June 2018 of merely a week before First Respondent proceeds with its intended interruption or disconnection of electricity supply, after it had considered written representations following a first notice period published on 18 May 2018, the First Respondent has created an acute measure of urgency necessitating the issuing of this application as a matter of extreme urgency.

4.7. The First Applicant first availed itself of the opportunity to make representations through its attorneys to the First Respondent of which a copy is attached hereto as annexure **"FA4"** in the hope that the First Respondent would reconsider its intended action in view thereof and other representations received. I refer to the full



contents thereof of the First Applicant's representations dated 18 June 2018.

- 4.8. As a result of the notification on 29 June 2018 of the decision by the First Respondent to proceed, the Applicants have no choice but to approach this Honourable Court on an extreme urgent basis for an immediate order in terms of part A1 in order to preserve the *status quo* of uninterrupted supply of electricity until all the issues are properly ventilated and the Respondents had a reasonable time to answer to the relief in terms of Part A2 of this application if so advised.
- 4.9. Therefore, the Applicant has deemed it necessary to divide Part A of the application in sub-parts, namely Part A1 and Part A2. The relief in Part A2 is ultimately aimed to preserve the *status quo* until final adjudication of Part B of the application, which part could be adjudicated in the normal course but possibly by way of an expedited hearing .
- 4.10. The relief sought for purposes of Part B appears from the Notice of Motion, but in the main it entails an application for review in terms of the Promotion of Administrative Justice Act of 2000 ("PAJA") and other ancillary relief.
- 4.11. As a last bid to avoid the necessity of burdening this Court on short notice with *interim* relief sought on an urgent basis, the



Applicant's attorneys addressed a letter dated 2 July 2018, inviting the First Respondent to provide an undertaking not to proceed to implement its decision to interrupt the bulk of the electricity supply to the Musina Local Municipality, so that the relief could be dealt with in the ordinary course (similar to recent other matters) and that the Deputy- Judge President be approached for an expedited hearing of the main application.

- 4.12. In the letter of 2 July 2018 the Applicant's attorneys also referred to recent interim orders granted by this Honourable Court in separate matters, which are attached to the letter of 2 July 2018.
- 4.13. A copy of the letter of 2 July together with copies of similar interim orders are attached is attached as annexure "FA 5.1", "FA 5.2", "FA 5.3", "FA 5.4" and "FA 5.5" respectively and I draw attention to the contents thereof.
- 4.14. As a result of the failure by the First Respondent to accommodate the Applicants as proposed in the letter of 2 July 2018, the Applicants had no choice but to proceed with this application.

**LOCUS STANDI OF THE APPLICANTS:**

5.

- 5.1. The subject matter of this application and the decision by the First Respondent involves various constitutional rights and obligations,


including rights in terms of the Bill of Rights which stand to be infringed.

- 5.2. The First Applicant brings this application by virtue of section 38(a) of the Constitution by acting in its own interest and in accordance with its objectives directed at the protection of constitutional rights.
- 5.3. The First Applicant also brings the application in terms of section 38(c) of the Constitution in the interest of a group of persons, namely those consumers and/or end-users of electricity to be affected by decision of the First Respondent in the town of Musina. The consumers and/or end users include various businesses in the town of Musina crucially dependant on the rendering of basic municipal services in the form of electricity distribution by the Second Respondent and who regularly and diligently pays for such services. Notwithstanding such payment for services, they stand to be deprived through the interruption or disconnection of electricity services as a result of the action of the First Respondent and are likely to be severely financially prejudiced in their business operations by the decision of the First Respondent to be implemented on 6 July 2018.
- 5.4. The subject matter of this application involves the broader public interest as a result of the rendering of basic municipal services to the public at large in Musina and consequential constitutional



issues. Therefore, the Applicants bring this application also in the public interest in terms of section 38(d) of the Constitution.

5.5. The First Applicant has various members who conduct mostly small businesses in the area of the Musina Local Municipality. The First Applicant has approximately 30 members including such businesses, and individuals and natural persons in the area of jurisdiction of the Musina Local Municipality and who are dependent on the supply of electricity to them. The Applicant therefore also brings this application by virtue of section 38(e) of the Constitution in the interest of its members.

5.6. The Second Applicant, who is also a member of the First Applicant, brings this application in his own interest. The Second Applicant is a medical practitioner who is dependent on the rendering of his services in the course of his practice as a general practitioner to patients dependent on the provision of electricity and will be unable to use critical equipment in the course of his practice, such as defibrillators, electrocardiograph apparatus, nebulisers, refrigeration for purposes of keeping medication, computers, air conditioners and internet services to enable him to render essential medical services to patients in need of such services. In this regard I refer to the supporting and confirmatory affidavit of the Second Applicant.



**SALIENT FEATURES OF THE APPLICATION:**

6.

- 6.1. This application seeks interim relief pending an application for review. The honourable court also has the power to grant a just and equitable remedy in terms of section 172(1)(b) of the Constitution and in terms of section 8(1) of PAJA.
- 6.2. This application is illustrative of unfortunately another example of a failure by a municipality to meet its financial obligations, as a result of which consumers and end-users of electricity stand to be deprived of the rendering of basic municipal services to them, as a result of an invasive and draconian decision by Eskom to interrupt the supply of electricity to a Municipality, likely to cause serious hardship to consumers and end-users of electricity in the area of jurisdiction of the Musina Local Municipality.
- 6.3. Considering the notice of Eskom dated 18 May 2018 an amount of almost R 73 million rand in debt to Eskom has accumulated since 2014. Why Eskom only now and suddenly wants to resort to such drastic measure and allowed the debt to escalate over 4 years, is not all explained or clear.

- 6.4. The decision of Eskom is further illustrative of a failure by organs of state to resort to reasonable other existing legislative and constitutional means within their powers and in accordance with principles of cooperative governance in order to address issues of this nature timeously and meaningfully instead of leaving the consumers, public and end-users at the mercy of poor governance at municipalities and Eskom .
- 6.5. The decision merely exacerbates unconstitutional poor service delivery with an adverse knock-on effect on citizens, businesses, the local economy of a municipality and the broader economy of the country.
- 6.6. The notice of Eskom of 29 June 2018 does not provide adequate reason of the decision in the sense that it failed to indicate on what statutory or legal grounds it relies for taking the decision and whether it has complied with the principles of cooperative governance before it decided to proceed with the planned interruption of electricity supply. Only the notice of 18 May refers to Electricity Regulation Act 4 of 2006 ("ERA") and the supply agreement with Second Respondent.
- 6.7. The decision of Eskom to interrupt the supply of electricity to the Second Respondent raises important and fundamental constitutional and legislative issues. As a result there are



various other pending applications of a similar nature before this Court to determine these issues and the various rights and obligations.

6.8. This is yet another example of a matter where law-abiding citizens in the sense of consumers and end-users of electricity who diligently pay their municipal accounts to a municipality, find themselves in the untenable situation that notwithstanding complying with their obligations and dependency on the provision of such basic municipal services from the municipality with no other choice or alternative, they stand to be severely prejudiced and affected as result of a decision of another organ of state in the person of Eskom to interrupt and possibly disconnect the supply of the services and also on relative short unreasonable notice between the date of final decision being 29 June 2018 and 6 July 2018.

6.9. The period during which the interruptions will take place during week 1 is evident from the final decision notice (**Annexure "FA2"**). In week 2 it increases to the extent of fourteen hours from Monday to Sunday from 06h00 to 20h00 indefinitely without any indication as yet that the municipality is able to meet Eskom's demands. It is for all practical purposes almost a total interruption. It is also indefinite. Eskom also reserves the





right to disconnect supply altogether. The effect of the decision which is now to be implemented hardly needs to be spelled out.

- 6.10. It is noteworthy that Eskom has decided, for purposes of week 1, to interrupt the supply during hours in the morning in winter time when the use of electricity is most needed for individual households. It is unreasonable and inhumane in the extreme.
- 6.11. It is clearly aimed to maximise pressure on the local municipality in order to effect payment to Eskom using consumers and end-users as leverage, which the Second Respondent probably will not be able to do because of ostensible financial difficulty which Eskom in all likelihood as a major State-owned enterprise is aware of and which warrants the attention of the Limpopo Province and probably also National Treasury.
- 6.12. The interruptions for purposes of week 2 are likely to not only have a serious adverse effect on normal households, but also serious detrimental financial effect on all business across the board within the Musina Local Municipality.
- 6.13. It should also be borne in mind that the Second Respondent is also a user of electricity for purposes of its own administration and other service delivery to the public in terms of its constitutional mandate.

6.14. Various basic human rights stand to be affected as a result of the decision of Eskom if implemented, coupled with the dismal failure of the municipality to comply with its financial obligations. Such rights, constitutional and basic human rights, are the following:

6.14.1. The right to administrative justice in terms of section 33 of the Constitution, read with the provisions of PAJA;

6.14.2. The right to be provided with basic municipal services in the form of electricity and other services by members of the public who pay for such services;

6.14.3. The infringement of constitutional rights to dignity, i.e. (section 10), the practice of a trade occupation or profession (section 22), rights to housing and property, (sections 25 and 26 of the Constitution), the right to health care services (section 27), water, and education [section 29(1)]. Various schools in the town are likely to be affected when the school term starts on 17 July 2018.


6.14.4. It furthermore infringes the legality principle and the rule of law for reasons stated further herein.

**RELEVANT STATUTORY AND CONSTITUTIONAL PROVISIONS:**

7.

- 7.1. The statutory and constitutional provisions referred to further herein are not exhaustive and the Applicants reserve their right to deal with such statutory provisions and constitutional provisions in more detail during argument. Therefore the Applicants confine themselves to an overview of the relevant statutory and constitutional provisions.
- 7.2. The distribution and reticulation of electricity by municipalities is one of the most common and important basic municipal services that has become virtually indispensable in modern society. The provision of basic municipal services in the form of electricity is one of the fundamental constitutional functions of local government in order to meet the basic needs of all the inhabitants of South Africa. It is a matter of public and constitutional duty.
- 7.3. The obligations borne by a local government to provide basic municipal services are sourced in the Constitution and various

legislation. The overarching constitutional provisions are sections 152(1) and 152(2) of the Constitution read with section 156 and schedule 4, part B.

- 7.4. Further content in respect of the rendering of municipal services to members of a local community is given by the Local Government: Municipal Systems Act, 32 of 2000 ("Municipal Systems Act") by virtue of section 4(2) and, *inter alia*, section 73 of the Municipal Systems Act.
- 7.5. Ancillary to the provisions of the Municipal Systems Act, *inter alia* is section 84(1)(c) of the Local Government: Municipal Structures Act ("the Structures Act"), in terms of which district municipalities are empowered to manage the bulk supply of electricity to end-consumers.
- 7.6. Further and ancillary to the above mentioned are certain provisions of the Local Government: Municipal Finance Management Act ("MFMA").
- 7.7. Chapter 5 of the MFMA contains several provisions for purposes of promoting co-operative government between national and provincial governments with the view of supporting municipalities for purposes of financial management. I do not intend to deal with all of them save to mention a few. The remainder will be left for argument.



- 7.8. In terms of section 34(2) of the MFMA national and provincial governments must support the efforts of municipalities to identify and resolve their financial problems. In terms of section 37 of the MFMA municipalities must in their financial relations with the national and provincial spheres of government and other municipalities promote co-operative government in accordance with Chapter 3 of the Constitution and the Intergovernmental Fiscal Relations Act.
- 7.9. In terms of section 41 of the MFMA the National Treasury must monitor pricing structures of organs of state for the supply of electricity, water and other bulk resources to municipalities and payments made by municipalities for such bulk resources.
- 7.10. In terms of section 41(2) each organ of state providing such bulk resources to a municipality, must furnish the National Treasury in writing at the end of each month the amount to be paid by the municipality for such bulk resources for that month; the arrears owing and the age profile of such arrears and actions taken by that organ of state to recover the arrears. Whether this has been done by Eskom is questionable as result of the accumulation of the current debt over 4 years.
- 7.11. Section 44 of the MFMA also dictates the resolution of disputes between organs of state. Section 44(1) provides that whenever



a dispute of financial nature arises between organs of state, the parties concerned must as promptly as possible take all reasonable steps that may have been necessary to resolve the matter out of Court.

- 7.12. Section 44(2) further provides that if the National Treasury is not a party to the dispute, the parties must report the matter to the National Treasury and may request the National Treasury to mediate between the parties or to designate a person to mediate between them. There is no indication that this has been done and the relevant respondents are invited to disclose that there has been compliance.
- 7.13. Chapter 13 of the MFMA contains various provisions toward the resolution of financial problems of a municipality. It places, for example in terms of section 136, the obligation on the MEC for Local Government certain duties towards the resolution of financial problems.
- 7.14. Section 139 of the MFMA provides for certain mandatory provincial interventions arising from a financial crisis. Section 141 of the MFMA provides for the preparation of financial recovery plans. Section 150 of the MFMA even provides for the intervention by the National Executive where the Provincial Executive cannot or does not adequately exercise the powers

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and perform the functions in terms of section 139(4) or 139(5) of the Constitution.

- 7.15. Given the aforesaid provisions of the MFMA aimed to support and assist firstly at provincial level and ultimately at national level where a municipality is unable to comply with its financial obligations towards the rendering of essential basic municipal services, including its financial commitments towards another organ of state, it would appear that neither the dispute resolution mechanisms were embarked upon nor the financial rescue provisions of the MFMA were resorted to in order to prevent the current situation whereby members of the public and users of electricity stand to be deprived of their constitutional right to receive basic municipal services from the Second Respondent and as a result of the unilateral action taken by Eskom as major state enterprise and organ of state.
- 7.16. Section 41(1) of the Constitution provides that all spheres of Government and all organs of state within its sphere must, *inter alia*, secure the well-being of the people of the Republic and cooperate with one another in mutual trust and good faith.
- 7.17. Section 41(2) provides for the enactment of legislation to establish and provide for structures and institutions to promote and facilitate intergovernmental relations and provide for



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appropriate mechanisms and procedures to facilitate settlement of intergovernmental disputes.

7.18. Section 41(3) of the Constitution further provides that an organ of state involved in an 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 the Court to resolve the dispute.

7.19. Section 41(4) provides that if a Court is not satisfied that the requirements of subsection (3) have been met it may refer a dispute back to the organs of state involved.

7.20. In this case these provisions are circumvented by Eskom in its decision to enforce payment by interrupting supply to the municipality thereby avoiding an approach to Court and following of prior dispute resolution procedures and then leaving it to consumers and end – users to seek relief from the Court. In doing so it subverts the spirit and purpose of the legislative provisions.

7.21. The Intergovernmental Relations Framework Act, No. 13 of 2000 ("IRFA") was, *inter alia*, enacted in order to give effect to section 41(2) of the Constitution. I do not intend to traverse the provisions of this Act in detail and it will be referred to in further





argument, save to say that it provides for the establishment of intergovernmental forums at national provincial, and local government level in order to promote co-operative governance. Chapter 4 of last-mentioned Act provides also for the settlement of intergovernmental disputes.

- 7.22. In terms of its powers under section 47(1)(f) of IRFA, the for Minister of Provincial and Local Government (now known as the Minister for Cooperative Governance and Traditional Affairs) has published guidelines for effective conflict management and also to give effect to judgments of the Constitutional Court which places a positive duty on organs of state to endeavour to resolve their disputes amicably.
- 7.23. In terms of Item 3 of the Guidelines, the Guidelines are applicable to all organs of state. The Guidelines further give effect to section 40(2) of the IRFA, which stipulates that any formal agreement between two or more organs of state must include dispute settlement mechanisms, or procedures that are appropriate to the nature of the agreement and the matters that are likely to become the subject matter of the dispute.
- 7.24. In order to give effect to section 40(2) the Guidelines make provision for standard clauses in agreements between organs of state in order to make provision for dispute settlement



procedures which include, *inter alia*, mediation and arbitration. I refer to the relevant provisions of the IRFA and the Guidelines, as they are mandatory provisions that have to be complied with by Eskom in its relationship with the Musina Municipality and its agreement to supply electricity to the Municipality.

- 7.25. The Applicants are not in possession of the agreement between Eskom and the Second Respondent to ascertain to what extent these dispute resolution mechanisms have been adopted in terms of the agreement and to what extent they have been exhausted before resorting to the draconian measure to interrupt the electricity supply to the Second Respondent, ostensibly on Eskom's interpretation of section 21(5) of the ERA which interpretation is dealt with further herein.
- 7.26. The Electricity Regulation Act ("ERA") legislates the regulation of the supply of electricity of South Africa. Its objects include the achievement of an efficient, effective, sustainable and orderly operation of electricity supply infrastructure in South Africa.
- 7.27. ERA also seeks to ensure that the interests and needs of present and future electricity customers and end-users are safeguarded and met, having regard to the governance, efficiency, effectiveness and long-term sustainability of the electricity supply industry within the broader context of


- 27 -

economic energy regulation in the Republic. It also seeks to facilitate a fair balance between the interests of customers and end-users, licensees and investors in the electricity supply industry and the public.

- 7.28. The National Energy Regulator ("NERSA") is the independent body responsible as a custodian and enforcer of the regulatory framework. ERA contain several provisions aimed to regulate the issuing of licenses and the operation, generation, transmission and distribution of electricity and affords NERSA various functions and powers in order to give effect to this purpose.
- 7.29. Eskom has a monopoly in South Africa in relation to the generation and transmission of electricity in South Africa. It is also the holder of a license for the generation and transmission of electricity and supply electricity to various municipalities in South Africa.
- 7.30. The distribution function of Eskom is either carried out by Eskom itself directly to electricity consumers and end-users or is carried out by a number of licensees, the majority of whom are municipalities. The municipalities are also licensed by NERSA to distribute electricity and to trade in electricity.

- 7.31. A municipality such as the Second Respondent is therefore also a licensed distributor and trader in electricity and like other municipalities relies on the generation of revenue from the selling of electricity to customers and end-users. To this extent customers and end-users within the area of jurisdiction of the municipality has no other choice but to be dependent upon the distribution of electricity to them via the municipality, who in turn receives its supply of electricity from Eskom .
- 7.32. In terms of Section 27(f) of ERA it is, *inter alia*, the duty of a municipality to ensure sustainable reticulation services through effective and efficient management and in adherence to the national norms and standards contemplated in section 35.
- 7.33. It is furthermore the duty of a municipality in terms of section 27(g) to regularly report and provide information to the Department of Provincial and Local Government (now known as COGTA), the National Treasury, the Regulator and customers.
- 7.34. Therefore, from the provisions of ERA, read with the MFMA and the principles of cooperative governance, it is the joint function of Eskom, municipalities, NERSA, provincial government, the Minister of Cooperative Governance and to some extent National Treasury (under the control of the Minister of Finance) who all have the constitutional and statutory duty to ensure that all these constitutional and legislative objectives are properly



fulfilled in the interest of the broader public and consumers and end-users of electricity.

- 7.35. Although Eskom has not specifically in the final notification of intended interruption of electricity supply to the Second Respondent referred to Section 21(5) of ERA, the Applicants are mindful that in other matters Eskom relied on section 21(5)(b) of ERA as justification to interrupt or terminate municipal supply of electricity to the municipality. In this regard Eskom regards a municipality as a “customer”.
- 7.36. This interpretation is doubtful for various reasons. Firstly, the interpretation is incorrect, viewed against the full context and purpose of ERA. Without limiting in any way argument that will be made in this regard, the municipality is itself a licensee and trader and distributor of the electricity and not merely a customer. The relationship is akin to an intermediary or sub-contractor and is an extension of Eskom to customers and end-users. In certain rural areas Eskom performs directly the distribution to the consumers as customers or end-users. Eskom relies on a narrow interpretation of the legislation ignoring the context and purposes not only of ERA, and the broader scope of other legislation such as the MFMA and principles of cooperative governance. For example, if consideration is given to section 6 of ERA, which provides for



the establishment of customer and end-user forums, it envisages such forums to have amongst members of the forums also licensees and customers. A municipality cannot be both a licensee and a customer considering a broader purpose and scheme of the Act. Argument will also be made with regard to other provisions for purposes of a contextual interpretation and the purpose of interpretation of ERA. Customer can only mean a buyer of electricity from a licensee and not a licensee to whom electricity is supplied for purposes of further distribution and trading or on-selling to customers or end users.

- 7.37. One of the powers in terms of section 4 of NERSA is to enforce performance and compliance and take appropriate steps in the case of non-performance. This relates to non-performance and non-compliance by, *inter alia*, licensees.
- 7.38. It follows that from ERA and the other legislation referred to that Eskom can avail itself of the remedy to approach the regulator and other organs of state in order to call upon their powers and duties to assist it where another licensee and organ of state fails to comply.
- 7.39. The main relief in Part B of this application is also directed to seek relief to ensure compliance and performance of the functions of NERSA in terms of ERA.



- 7.40. It is by no means clear that Eskom has sought the assistance of NERSA as a regulator or has avail itself of alternative dispute resolution mechanisms either provided in terms of ERA or in terms of the principles of cooperative governance.
- 7.41. It is, for instance, also within the scope of the duties and powers of the Regulator, NERSA, to ensure that municipalities comply with their duties as licensees in terms of section 27 of ERA, which includes compliance with section 27(g).
- 7.42. To the extent that Eskom may again rely on the right to terminate the supply of electricity or to interrupt the supply on the strength of section 21(5)(b) of ERA, it is submitted that even if the interpretation of Eskom is found to be correct, such a decision lie at the level of co-operative governance and it may not do so unless the principles of co-operative governance has first been exhausted.
- 7.43. Furthermore, the decision by Eskom infringes constitutional rights under the Bill of Rights as referred to above in paragraph 6.14 and it is submitted that ERA, including section 21(5)(b) is not a law of general application as envisaged in section 36(1) of the Constitution or that it is reasonable and justifiable, having regard to the factors listed in section 36(1) of the Constitution.

- 7.44. Without traversing all the factors individually in section 36 of the Constitution, there are less restrictive means to achieve the purpose by resorting to the regulator (NERSA) or apply the principles of co-operative governance or resort to the already mentioned provisions of the MFMA in order to achieve the purpose of obtaining payment for the supply of its electricity from another organ of state such as the Second Respondent, especially where it knows that its decision will adversely affect businesses and individual members of the public who are diligent paying customers and end-users of electricity.
- 7.45. On the strength of the interpretation of the Applicants in respect of ERA and including section 21(5)(b) the decision of Eskom is unlawful. Furthermore, the Applicants contend that the decision is also unlawful considering the constitutional imperative of co-operative governance and related legislation including ERA and the MFMA and less restrictive means are available in legislation and could be resorted to.

**GROUND OF REVIEW IN TERMS OF PAJA:**

8.

For purposes of the relief sought in Part B of the application and the *prima facie* rights of the Applicants which have been infringed considering the





requirements of an *interim* interdict which is sought under Part A of the Notice of Motion, the relief sought is based on the following grounds:

- 8.1. The decision of Eskom to interrupt the supply of electricity to the Second Respondent is considering the principle of legality unconstitutional and unlawful, viewed against the constitutional principles of cooperative governance and related legislation, and other available remedies in terms of the MFMA and against the broader context and purpose of ERA;
- 8.2. The decision of Eskom amounts to administrative action by an organ of state which adversely affects the rights of persons and which has a direct external legal effect.
- 8.3. The short notice period of an intention to interrupt the electricity supply between the 29<sup>th</sup> of June and 6<sup>th</sup> of July 2018 is unreasonable and unfair and adversely affects the rights of customers and end-users of electricity in the town of Musina. The action is therefore procedurally unfair in terms of Section 6(2)(c) of PAJA.
- 8.4. Mandatory and material procedures and conditions prescribed by legislation were not complied with by Eskom. Again in this regard reference is made to the provisions of ERA, principles of co-operative governance and the MFMA already referred to. In



this regard the action was most probably also materially influenced by an error of law or contravenes the law or not authorised by the empowering provision. This renders the action of the first Respondent reviewable in terms of section 6(2)(b), 6(2)(d) and 6(2)(f)(i) of PAJA.

8.5. The failure to pursue alternative remedies, as already mentioned, amounts to a failure to take relevant considerations into account or amounts to a lack of consideration of relevant consideration and which renders the action reviewable in terms of section 6(2)(e)(iii) of PAJA.

8.6. The exercise of power under the interpretation of section 21(5)(b) of ERA infringes the principle of proportionality and is unreasonable, unless less restrictive remedies and alternative remedies, as already mentioned before with reference to alternative dispute resolution or application of the principles of co-operative governance are resorted to and therefore renders the action reviewable under section 6(2)(h) of PAJA.

8.7. The failure by Eskom to follow other alternatives and less restrictive and less draconian measures in preference to the exercise of a decision in terms of section 21(5) of ERA supports the conclusion that the limitation of the Bill of Rights is not

reasonable and justifiable considering section 36(1) of the Constitution.

**REQUIREMENTS FOR AN INTERIM INTERDICT:**

9.

**Prima Facie Right:**

- 9.1. Considering the interests and rights which the First Applicant seeks to protect, having regard to section 38 of the Constitution and the direct interest of, both Applicants and the rights of consumers and end-users in the broader sense, which rights the First Applicant seeks to protect, a *prima facie* right considering the right to basic Municipal services in the form of provision of electricity which stand to be adversely affected and infringed across the board, especially paying customers or end-users. First Applicant seeks to protect the rights of those diligent and paying customers or end-users who find themselves caught in an untenable situation which arose between two organs of state. The rights referred to above under the Bill of Rights stand to be infringed. The Applicants, and those whose interests and rights they seek to protect, also have a legitimate expectation or a right that Organs of State comply with the principles of cooperative government and alternative less restrictive measures than the one that has been adopted by Eskom. Furthermore, their rights to fair and just

administrative action considering the provisions of PAJA already referred to, are *prima facie* also affected.

**Irreparable Harm:**

- 9.2. It is submitted that there is a well-grounded apprehension of irreparable harm in the *interim*, if the *interim* relief is not granted and the ultimate relief is eventually granted. I have already referred to the envisaged harm in respect of businesses and other individual interests which the Applicants seek to protect. It speaks for itself that even an interruption of electricity to the extent intended by Eskom will create harm and prejudice including other service delivery of Second Respondent to businesses and the public. It is submitted that this harm and prejudice is obvious as the result of the dependency of businesses and individual households and persons on the supply of electricity. It is likely to affect water pumps, warm water systems, the functioning of computer systems, to name a few.
- 9.3. From a broader public perspective the decision is likely to affect the local Musina Hospital, healthcare services, factories, schools and has a general adverse financial effect on businesses and which would most probably also place certain businesses at financial risk which could result in their demise and likely to affect also employment.



- 9.4. The Second Applicant will be directly affected in his practice as a medical practitioner and especially patients who are in need of healthcare services. In the town of Musina there are also other private emergency services and medical services which stand to be affected.

**Balance of Convenience:**

- 9.5. It is further submitted that the balance of convenience favours the granting of the *interim* relief. In this regard I wish to reiterate that similar *interim* relief was recently granted by this Honourable Court as it appears from the Court Orders that were attached to the letter of the First Applicant's attorneys dated 2 July 2018. It needs also to be mentioned that in the **Resilient** matter Eskom voluntarily agreed not to proceed with the intended interruption of supply of electricity to eMalahleni (previously known as Witbank) until the adjudication of the main relief which is to be heard later in August 2018.

- 9.6. It is submitted that the balance of convenience favours the interests of those that the First Applicant seeks to protect and the interest of the Second Applicant. Other avenues are still open to Eskom in terms of the MFMA, ERA and the principles of co-operative governance in order to secure payment.

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- 9.7. The Applicants have no other satisfactory remedy at its disposal.

**URGENCY:**

10.

- 10.1. The final decision of the First Respondent was announced through the publication of the notice on 29 June 2018. The interruption of electricity supply takes effect from 6 July 2018, indefinitely unless the Court grants an order on an urgent basis in order to prevent such interruption.

- 10.2. Members of the public and interested parties had until 18 June 2018 to make representations to Eskom. The First Applicant has availed itself of the right as can be seen from the written representations dated 18 June 2018. Less than two weeks thereafter, which places a proper consideration of all the representations in doubt, the final decision followed to be implemented within a week from the final decision. This approach forces the Applicants to approach the Court on an extreme urgent basis. However, mindful that the extreme urgency would leave little time for Eskom to file papers if it intends to oppose Part A of the Notice of Motion, the Notice of Motion has been structured in Part A in two parts so as to provide a reasonable opportunity for Eskom and other



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Respondents to answer to the *interim* relief. Mainly the First Respondent is affected by the *interim* relief.

- 10.3. The Applicants had no other option, as a result of the urgency created by the First Respondent, to approach the Court on this urgent basis and cannot obtain such *interim* relief in the ordinary course.
- 10.4. With no indication at this stage that the Municipality is able or in a position to make satisfactory arrangements with Eskom, Eskom is determined to proceed with the interruption of the electricity and to the extent as set out in the notice. This could potentially continue for the entire period until Part B of the application is heard. There is therefore no substantial redress in the *interim* other than to seek an *interim* interdict on an urgent basis. If the matter is not dealt with as a matter of urgency, the potential harm to small businesses and other businesses, including also two high schools and the primary school in the town of Musina, could be devastating and/or seriously detrimental.

**SERVICE OF THE APPLICATION IN THE LIGHT OF THE URGENCY:**

## 11.

11.1. The Applicants' attorneys have ascertained e-mail addresses of senior persons in the employ of the First Respondent and which addresses were also used in other similar applications recently. They appear from the Notice of Motion. Insofar as it was possible to do so under the severe time constraints, the copies of the applications will also be delivered by hand to the other Respondents. A copy of the application will also be forwarded by e-mail to the Municipal Manager of the Second Respondent at the e-mail address which was obtained by the Applicants' attorneys.

11.2. To the extent that it may be necessary, the Applicants' attorney of record will produce a service affidavit in confirmation of service to be effected in this manner for purposes of the urgent application.

**CONCLUSION:**

## 12.

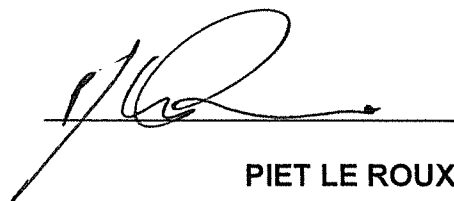
In the circumstances the Applicants pray for the relief on an urgent basis in terms of Part A of the Notice of Motion. The relief sought in terms of





- 41 -

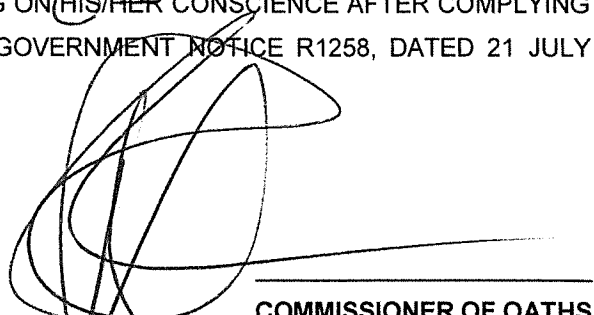
Part B of the Notice of Motion is to be sought in the ordinary course of events having regard to the provisions of Rule 53. The Applicants reserve their right to the extent that it may become necessary to amend the relief and or supplement the Founding Affidavit.



PIET LE ROUX

THUS SWORN AND SIGNED AT Pretoria ON THIS 4th  
DAY OF JULY 2018, BEFORE ME,  
Roelien Watson, COMMISSIONER OF OATHS, THE  
DEPONENT HAVING ACKNOWLEDGED THAT HE/SHE UNDERSTANDS THE  
CONTENTS OF THIS AFFIDAVIT, HAS NO OBJECTION IN TAKING THE OATH AND  
REGARDS THE OATH AS BINDING ON HIS/HER CONSCIENCE AFTER COMPLYING  
WITH THE REQUIREMENTS OF GOVERNMENT NOTICE R1258, DATED 21 JULY  
1972, AS AMENDED.

BEFORE ME:



.....COMMISSIONER OF OATHS  
Roelien Watson  
Commissioner of Oaths  
Ex-Officio, Practising Attorney  
HS Forum Building, 13 Starnvrug Street  
Val-de-Grace, Pretoria  
Cell: 082 774 2649

NAME:

CAPACITY:

ADDRESS:

52  
01-54  
"FA 1"

## Department: Cooperative Governance (COGTA)



Management/Financial

### Contact Details

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**Tel** 012 334 0600/0705

**Fax** 012 334 0603

**Web** [www.cogta.gov.za](http://www.cogta.gov.za)



Cooperative Governance  
Traditional Affairs

### Overview

The mission of the Department of Cooperative Governance (COGTA) is to ensure that all municipalities perform their basic responsibilities and functions without compromise by: putting people and their concerns first; supporting the delivery of municipal services to the right quality and standard; promoting good governance, transparency and accountability; ensuring sound financial management and accounting; and building institutional resilience and administrative capability.

Governance is to facilitate cooperative governance and support all spheres of government, promote traditional affairs and support associated institutions through: developing appropriate policies and legislation to promote integration in government's development programmes and service delivery; providing strategic interventions, support and partnerships to facilitate policy implementation in the provinces and local government; and creating enabling mechanisms for communities to participate in governance.

The strategic goals of the Department are aligned with the broad policy priorities of the country, as outlined in the 2014-2019 Medium-Term Strategic Framework (MTSF). The Department drives the implementation of the MTSF Outcome 9: to realise the MTSF vision and B2B programme through the implementation of strategic outcome-orientated goals, and programme strategic objectives for the Medium-Term Expenditure Framework (MTEF) 2015-2020 for updated strategic outcome-orientated goals.

01-54

# About Cooperative Governance & Traditional Affairs

## About us

The COGTA Ministry comprises of the Department of Cooperative Governance and the Department of Traditional Affairs. Key elements and Constitutional foundations of CoGTA's mandate:

- System of Cooperative Government (Chapter 3 of the Constitution)
- Provinces (Chapter 6 of the Constitution)
- Local Government (Chapter 7 of the Constitution)
- Traditional Leaders (Chapter 12 of the Constitution)

## Vision

A functional and developmental local government system that delivers on its Constitutional and legislative mandates within a system of cooperative governance

This Vision is in line with the objectives of Chapter 13 of the National Development Plan: *'Building a capable and developmental State'*

## Mission

Our mission is to ensure that all municipalities perform their basic responsibilities and functions consistently by:

1. Putting people and their concerns first;
2. Supporting the delivery of municipal services to the right quality and standard;
3. Promoting good governance, transparency and accountability;
4. Ensuring sound financial management and accounting; and
5. Building institutional resilience and administrative capability.

This mission is directly adopted from the 5 Pillars of the Back to Basics Campaign.

**Guided by the spirit of Batho Pele, our values are:**

- Commitment to public service.
- Integrity and dedication to fighting corruption.
- A hands-on approach to dealing with local challenges.
- Public participation and people centered approach.
- Professionalism and goal orientation.
- Passion to serve.
- Excellence and accountability.

Adherence to these values will contribute towards the required state of Local Government.

**Contact information**

Tel: 012 334 0600

E-mail: [info@cogta.gov.za](mailto:info@cogta.gov.za)



## ZOUT CLASSIFIEDS

### TO LET

#### TE HUUR

Groot 4 slaapkamer huis,  
2 badkamer, sitkamer,  
eetkamer, TV kamer,  
kombuis met ingeboude  
stoof, swembad met  
boorgat.  
R5 500 p.m.  
Pre-paid krag  
Dadelik beskikbaar  
Kontak Elize Venier:  
082 463 7677  
015 516 0116

### TE HUUR

#### HUIS TE HUUR

Bokmakierie - Mopanie  
2 Slaapkamer  
1 Badkamer  
Ruim kombuis  
Groot tuin en lapa  
Diere vriendelik  
Onmiddellik  
beskikbaar  
R5000 p.m.  
Krag en water ing  
Kontak Amanda  
082 301 8448

## MEENTHUIS TE HUUR OP PLOT PFB-Agent 516 5024

## VACANCY

Eden Oil Louis Trichardt -  
Petrol Station  
Assistant Manager

#### Responsibilities:

- Ensure that station runs smoothly and efficiently.
- Control employees and the facilities of the station.
- Plan and promote the daily schedule of employees and the business.
- Interview, hire, and coordinate employees, create and maintain budget, and coordinate with and report to senior management.
- Make sure that deliveries of fuel arrive on schedule.
- Diligently control stock with each shift.
- Keep standard procedures in place and exercise discipline.

#### Key skills:

- Leadership Skills
- Time Management
- Math and Judging
- Analytical Skills
- Decision-Making Skills
- Customer Service Skills

#### Requirements:

- Matric
- Minimum 3 years similar experience of working in a fuel station is essential.
- Strong mathematical skills/ capacity.
- A customer focused approach to work is highly essential.
- Polite, hardworking and evidence of excellent organizational skills.
- Ability to work in shift patterns.
- Strong leadership skills

Salary negotiable  
Applications close 31 July 2018.  
Email short CV to [arundo@edenoil.co.za](mailto:arundo@edenoil.co.za)

## VACANCY

### VAKATURE

Administratiewe klerk  
pos beskikbaar  
Algemene hantering van  
debiteure, en daaglikse  
roetine en administrasie.  
• Goede klanteverhoudings  
• Rekenskapvaardig:  
MS Word, Outlook  
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## Final Decision Notice

### FINAL DECISION ON THE INTERRUPTION OF BULK ELECTRICITY SUPPLY TO MUSINA LOCAL MUNICIPALITY

As indicated in the notice published on 18 May 2018, Eskom has carefully considered all written representations, comments and/or submissions received on or before the closing date which, among others, detailed the negative effect the contemplated interruption is likely to have on residents and business, the fact that some customers are paying customers in the Municipal area and many other representations. After careful consideration of all the representations and the overall impact of the escalating municipal debt, Eskom has taken a decision to proceed with the contemplated interruption and/or disconnection of bulk electricity supply to Musina Local Municipality.

Eskom hereby notifies all parties who are likely to be materially and adversely affected that the contemplated interruption of bulk supply to Musina Local Municipality will commence on 6 July 2018.

The contemplated interruption of electricity supply will result in temporary scheduled disconnection at the following times:

#### Week 1:

Monday to Friday:	Saturday to Sunday:
06:00 to 09:00 and 17:00 to 20:30	08:30 to 12:00 and 15:00 to 19:00

#### Week 2:

Monday to Friday: (1-Mins)	Saturday to Sunday:
06:00 to 20:00	06:00 to 20:00

Notwithstanding the above proposed indicative times for the interruption of electricity supply, Eskom may, upon 15 calendar days' notice, disconnect electricity entirely and indefinitely should the electricity debt situation not improve.

The following towns/municipal areas shall be affected by the contemplated interruption and/or disconnection, except those directly supplied by Eskom.

Affected towns/points of supply:

- Musina Town

Eskom advises all parties who are likely to be materially and adversely affected by the contemplated interruption of bulk electricity supply to Musina Local Municipality to take all the necessary precautions to ensure the safety of lives and to limit damages to their equipment, operations and business.

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## Notice

### INTERRUPTION OF BULK ELECTRICITY SUPPLY TO MUSINA MUNICIPALITY

Eskom hereby notifies all parties who are likely to be materially and adversely affected by its intention to interrupt bulk supply to Musina Municipality on 6 July 2018 and continuing indefinitely.

The Musina Municipality is currently indebted to Eskom in the amount of R72 735 380 (seventy-two million seven hundred and thirty-five thousand three hundred and eighty rand) for the bulk supply of electricity part of which has been outstanding and in escalation since May 2014 ("the electricity debt").

Eskom Holdings SOC Ltd ("Eskom") is under a statutory obligation to generate and supply electricity to municipalities nationally on a financially sustainable basis.

Musina Municipality is in breach of its payment obligation to Eskom, which undermines and places in jeopardy Eskom's ability to continue the national supply of electricity on a financially sustainable basis.

In terms of both the provisions of the Electricity Regulation Act, 4 of 2006 and supply agreement with Musina Municipality, Eskom is entitled to disconnect the supply of electricity of defaulting municipalities, of which Musina Municipality is one, on account of non-payment of their electricity debt.

In order to protect the national interest in the sustainability of electricity supply it has become necessary for Eskom to exercise its right to disconnect the supply of electricity to Musina Municipality.

Eskom recognises that the indefinite disconnection of electricity supply may cause undue hardship to consumers and members of the community, and may adversely affect the delivery of other services.

In view of this Eskom is contemplating a regulated interruption of electricity supply as opposed to an outright disconnection. The contemplated regulated interruption will allow members of the community and consumers the opportunity to make alternative arrangements for the scheduled periods of interruptions.

The contemplated interruptions of electricity supply will result in temporary scheduled disconnection at the following times:

Week 1:	
Monday to Friday:	Saturday to Sunday:
06:00 to 09:00 and 17:00 to 19:30	06:30 to 12:00 and 15:00 to 19:00
Week 2:	
Monday to Friday (14 hrs):	Saturday to Sunday:
06:00 to 20:00	06:00 to 20:00

Notwithstanding the above proposed indicative times for the interruption of electricity supply, Eskom, upon 15 days' notice, reserves the right to disconnect electricity entirely and indefinitely should the electricity debt situation not improve.

Eskom hereby invites all affected parties to submit written representations, comments and/or submissions indicating why Eskom should or should not proceed with the contemplated interruption and/or disconnection, as the case may be.

The following towns/municipal areas will be affected by the contemplated interruption and/or disconnection except those directly supplied by Eskom:

Customer-affected towns/points of supply:

Musina Town

Public representations, submissions, comments and/or requests for further information should be submitted to:

Rachel Sobola

Senior Manager: Customer Services (Acting)

Physical address: Eskom Offices, 66 Hans van Rensburg, Polokwane

Postal address: Eskom Holdings, Private Bag X9477, Polokwane 0700

Email address: LPEvecActionTeam@eskom.co.za

The closing date for public representations, submissions, comments and/or requests for further information will be end of business on 18 June 2018.

Please take note that comments received after the closing date will not be considered.

Such public representations, submissions, comments and/or requests for further information will be considered by Eskom, and the final decision will be published in a notice on 29 June 2018.

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"FA4"

Our ref: P Wassenaar / J Jordaan/QB0387

Your ref: Rachel Sebola / Musina

18 June 2018

**THE ACTING SENIOR MANAGER: CUSTOMER SERVICES**
**ESKOM SOC LTD**
**ESKOM OFFICES 66**
**HANS VAN RENSBURG**
**POLOKWANE**

 By email: [LPExecActionTeam@eskom.co.za](mailto:LPExecActionTeam@eskom.co.za)
**AFRISAKE NPC & OTHERS / ESKOM SOC LTD & OTHERS**
**RE: MUSINA LOCAL MUNICIPALITY PUBLIC REPRESENTATIONS: INTERRUPTION OF BULK ELECTRICITY  
SUPPLY TO MUSINA MUNICIPALITY**

1. We act on behalf of AfriSake NPC ("our client") and the various members of our client residing and/or conducting business in the Musina Local Municipality ("the Municipality").
2. It is our instructions that your offices ("Eskom") on or about 18 May 2018 published a notice in the local community newspaper, *Zoutpansberger*, informing the public of *inter alia* the following:
  - 2.1. That the Municipality currently owes Eskom an amount of R72 736 380.00;
  - 2.2. That Eskom is of the intention to interrupt the bulk supply of electricity to the Municipality on 6 July 2018, and that the interruption will continue indefinitely;
  - 2.3. That the affected parties must submit written representation, comments and/or submissions indicating why Eskom should not proceed with the contemplated interruption and/or disconnection, which submissions must be made by no later than 18 June 2018;
  - 2.4. That the aforementioned interruption of the bulk supply of electricity will not affect persons who are directly supplied with electricity.
3. Our client is a non-profit company focused on protecting the rights of its members, while overwhelmingly business owners, as well as the communities in which those members conduct business. Our client's goal is to protect the economic prosperity of the communities in which our client's members operate and to ensure that a favourable business environment is created.
4. Our client and its members have a direct interest in the matter, as our client's members operate in the Municipality's municipal boundaries and rely heavily on the supply of electricity by the

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 Direkteure/ Directors: Johan Kriek (B Proc, LLM), Péter Johannes Wassenaar (LLB)  
 Bygestaan deur/assisted by Tertía Johanna Wassenaar (LLB); Jani Jordaan (LLB);  
 Konsultante / Consultants: Catherina Elizabeth Pienaar (BA, BCur, LLB, LLM, PhD) , Sylvia Adriana Venter (LLB)

• Reg: 2012/030418/21

DocDate 2018/04/09

Municipality. Our client's members will be severely prejudiced by the intended action and will suffer irreparable harm if the supply of electricity to their homes and/or businesses is interrupted.

#### IRREPARABLE HARM

5. It is our client's view that the intended interruption of the supply of electricity is not in the national interest, as it will have a devastating effect to the local economy of Musina. Our client is further of the view that the interruption of the bulk supply of electricity to the Municipality will only increase the Municipality's inability to repay its debt.
6. The Municipality generates income from its residents and its local economy. Most of the local businesses rely heavily on electronic equipment in order to not only manage their affairs, but also to render, produce, manufacture and/or distribute local goods and services within not only the Musina community, but also the broader South African economy.
7. Notwithstanding the general damages that the businesses and home owners in the Municipality's boundaries will suffer as a result of your intended action, our client is of the view that the following industries will most likely be catastrophically hit by the interruptions:
  - 7.1. **Hospitals, emergency rooms and medical services** that rely heavily on specialised equipment to not only do the work, but specifically to keep patients alive and safe;
  - 7.2. **Police and security services** that rely on electronic databases, alarm systems, security equipment and communication devices to keep the community safe;
  - 7.3. **Sewage and water purification plants** that require sophisticated electronic systems and pumping equipment in order to supply water and manage sewage in the Municipality;
  - 7.4. **Factories and industry** that require high volumes of electricity in order to manufacture products and who will not have the financial capacity to generate sufficient electricity in order to proceed with production;
  - 7.5. **Shopping malls and large business developments** that will for health and safety reasons not be able to allow individual tenants use individual generators to power their units. Many larger developments will also not be able to afford the necessary generators to collectively generate sufficient electricity;
  - 7.6. **Small to medium enterprises** who require electricity in order to conduct business, but who will not be able to afford generators.
8. The interruption of electricity supply to the business community will result in massive financial losses, which will lead to many businesses having to either retrench workers and/or moving its business activities outside of the boundaries of the Municipality. This reduction in economic flow will all but improve the Municipality's ability to pay.
9. Our client is of the view that there are various alternative legislative and Constitutional remedies available to your offices which will actually address the systemic and root causes of the Municipality's failure to properly meet its obligations. Our client is of the view that the solution to this problem lies in proper cooperative governance.
10. As an organ of state in terms of Section 239 of the Constitution of South Africa, your offices are required to act in the best interests of the country and to ensure that constitutional order is not undermined. Our client is of the view that Eskom has taken an extremely narrow and short sighted



approach to the systemic and institutional problem underpinning the failure by various municipalities to meet their obligations to Eskom. It is our client's view that Eskom is required to consult with not only the municipality, but also provincial and national spheres of government in order to try and resolve the looming national crisis which will only worsen as a result of Eskom's specific approach to the municipal debt problem.

11. Our client demands that Eskom petition not only the Provincial Government, but also the National Government (with specific reference to the Department of Cooperative Governance and the Treasury), to assist you in seeking a constitutional and economically sensible resolution to the problem. We are of the view that Eskom not only has the right to petition the various spheres of government to intervene in the municipal crisis, but a duty as an organ of State to prevent irreparable harm to society and the economy.
12. It has come under our attention that the Minister of Finance on 17 June 2018, according to *Business Day*, stated that load shedding will have a massive negative impact on an already sluggish economy. It is clear that Eskom's attempt to paint this matter as being in the national interest, fails to recognise obvious economic factors beyond its own bottom line. We demand that Eskom discloses the process of consultation that is followed with not only the Municipality, but also the provincial and national spheres of government.

#### **HIGH RISK DAMAGE TO INFRASTRUCTURE**

13. According to our instructions, the proposed load shedding schedule may cause irreparable harm to power lines and substations in the Municipal boundaries. We have been informed that most of these substations are not build to carry the stress of a municipality wide shutdown of electricity. There is apparently a high likelihood that these units will explode or burn out once power supply is turned back on after a protracted load shedding period.
14. There is also a high likelihood of widespread damage to individual electronic devices and systems within the Municipality, which will only delay and frustrate service delivery in the area. The cost of damage to municipal property, which at the end of the day will become the responsibility of individual ratepayers, will run into the millions.
15. Individual property also runs the risk of permanent damage and burnout. Load shedding will lead to massive losses and damage to property. In addition to this, the indirect cost of maintaining these systems is most likely to skyrocket.

#### **NO REAL FINANCIAL BENEFIT**

16. Our client is also of the view that there will be no direct financial benefit to Eskom if it is to proceed with the intended interruptions. Our client has consulted with various experts, who are of the opinion that there will be no actual reduction in Eskom's actual energy production during the intended artificial load shedding periods. It is our instructions that the intended process will not lead to an actual decrease in generation costs which in turn reduce the debt of the Municipality.
17. We are of the opinion that the sole intention of this process is to put pressure on the community as an attempt to force the Municipality to comply with its agreements with Eskom, instead of seeking a direct recourse against the Municipality in terms of the contractual and legislative rights that Eskom has.
18. It also seems as if these artificial load shedding periods will cause artificial usage spikes, which will result in the Municipality attracting penalties as a result of the Municipality's breach of its daily

maximum usage. These artificial usage spikes and penalties will only lead to an increase in municipal debt.

#### SIMILAR PROCESSES UNDER REVIEW

19. It is our instructions that Eskom has already been successfully interdicted from interrupting the bulk supply of electricity by more than one division of the High Court. It is our instructions that interdicts have been granted pending the finalisation of a review in the following cases:

	MUNICIPALITY	HIGH COURT DIVISION	INTERDICT DATE
19.1.	Emalahleni	Pretoria Case No: 83581/2017	2017/12/12
19.2.	Victor Khanye	Pretoria Case No: 28599/2018	2018/05/04
19.3.	Kgetlengrivier	Pretoria Case No: 33447/2018	2018/05/18
19.4.	Thaba Chweu	Mbombela	
19.5.	Dipalaseng	Pretoria	
19.6.	Govan Mbeki	Pretoria	

20. There is no substantial difference in the economic and social effect that the process will have on the aforementioned municipalities' communities, and that of the Musina Municipality and its community. We are of the view that it is in the best interests of not only the Musina community, but also Eskom, that the intended action be held over pending finalisation of the review in especially the Emalahleni (*Resilient and others v Eskom SOC Ltd and others – Caseno 83581/2017*) matter. It will constitute a gross mismanagement of public funds if Eskom is to steamroll the exact same process as in other municipalities where Eskom has already been interdicted to do so.
21. Our client will not hesitate to seek a special punitive cost order *de bonis propriis* against the persons responsible for the decision in order to recoup the wasted costs of litigation. Eskom's attempt to take recourse against the defaulting municipalities where there is no clear right to do so and also a flurry of pending litigation based on materially the same facts, will not be condoned by our client. Our client will not allow Eskom to pass the bill for poorly considered legal action, to the public.

#### ALTERNATIVE REMEDIES

22. It is also our instructions that Eskom has failed to exhaust all other legal remedies available to it in law. Eskom has instead elected to follow a drastic process which will severely prejudice the local community.
23. We are of the view that the following alternative legal remedies are available to Eskom:
- 23.1. Issuing summons against the municipality in order to obtain judgement;
  - 23.2. Applying for a mandamus against the Municipality in order to secure payments and safeguard the public's right to basic municipal services;
  - 23.3. Approaching NERSA under the Electricity Regulation Act for appropriate relief in the light of the Municipality's continued breach of its licence conditions and its constitutional obligations to the public.

- 23.4. Requiring action in terms of Section 139 of the Constitution;
- 23.5. Following the process prescribed in Section 139 of the Local Government: Municipal Finance Management Act.
24. This scope of the municipal payment problem is indeed a national issue that requires the input of not only to Provincial Government, but also the National Government. Eskom is an organ of state in terms of Section 239 and should, even though it is also a registered company in terms of the Companies Act, see itself as part of the entirety of the executive body of government. In failing to properly consult with the Provincial and National Government, Eskom is acting against the best interest of the public.
25. Eskom's intended action is in our view irrational and not rationally linked to a lawful purpose.
26. Our client's demands that Eskom reviews its decision on the matter and that the best interest of the community and economy of Musina prevail.

Yours faithfully,

  
**KRIEK WASSENAAR & VENTER INC**  
PETER WASSENAAR – DIRECTOR  
(f) 086 596 8516  
(e) [peter@kriekprok.co.za](mailto:peter@kriekprok.co.za)

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**Subject:** Afrisake NPC / Eskom SOC  
**From:** Jansie Swart <kontak@kriekprok.co.za>  
**Date:** 2018/06/18 03:22 PM  
**To:** LPExecActionTeam@eskom.co.za

Attached letter for your attention.



**JANSIE BRITS**

**Kriek Wassenaar & Venter Ing**

**Regsekretaresse / Legal Secretary**

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**KRIEK WASSENAAR & VENTER ING**  
Prokureurs & Advokate - Advocates & Counselors

Attachments:

Eskom SOC Ltd by email 2018-06-18.pdf

417 KB



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"FAS!!"

Our ref: P Wassenaar /jb/QB0387  
Your ref: Rachel Sebola / Musina

2 July 2018

THE ACTING SENIOR MANAGER: CUSTOMER SERVICES  
ESKOM SOC LTD  
ESKOM OFFICES 66  
HANS VAN RENSBURG  
POLOKWANE

**EXTREMELY URGENT**

By email: [LPExecActionTeam@eskom.co.za](mailto:LPExecActionTeam@eskom.co.za)

**AFRISAKE NPC & OTHERS / ESKOM SOC LTD & OTHERS**  
**RE: MUSINA LOCAL MUNICIPALITY PUBLIC REPRESENTATIONS: INTERRUPTION OF BULK ELECTRICITY**  
**SUPPLY TO MUSINA MUNICIPALITY**

1. We refer to the above mentioned matter and Eskom's decision regarding the interruption of bulk electricity supply to Musina Local Municipality that was published in the *Zoutpansberger* on 29 June 2018.
2. We have been instructed to bring an application on behalf of our client and its members to review the decision. Our client has instructed us to seek an urgent interdict against Eskom pending the finalisation of the review of Eskom's decision.
3. Our client has already consulted with counsel. We can confirm that a substantive application is currently being drawn.
4. In a last attempt to prevent an unnecessary urgent application in the High Court, our client proposes that the parties conclude an interim settlement, without prejudice of rights, on the following basis:
  - 4.1. That Eskom undertakes not implement its decision to interrupt the bulk electricity supply to the Musina Local Municipality, pending the finalisation of our client's application to be served in terms of paragraph 4.2 below;
  - 4.2. That our client issue and serve its application to review Eskom's decision and/or any further relief that it might seek, by no later than 20 July 2018;
  - 4.3. That Eskom be granted fifteen (15) court days from date of service of our client's application to file its answering affidavit;
  - 4.4. That our client be granted ten (10) court days from date of service of the answering affidavit, to file a replying affidavit;

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Direkteure/ Directors: Johan Kriek (B Proc, LLM), Péter Johannes Wassenaar (LLB)  
Bygestaan deur/assisted by Tertia Johanna Wassenaar (LLB); Jani Jordaan (LLB);  
Konsultante / Consultants: Catherina Elizabeth Pienaar (BA, BCur, LLB, LLM, PhD), Sylvia Adriana Venter (LLB)  
• Reg: 2012/030418/21  
DocDate 2018/04/09

*pa*

- 4.5. That the parties agree to approach the Deputy-Judge President for an expedited hearing of the application;
5. We are of the view that the aforementioned terms will ensure a speedy resolve of the dispute for both parties, but also limit the need for truncation of the rules. It is in the best interest of both parties that they properly ventilate their dispute.
6. In terms of your notice of 29 June 2018, Eskom intends to commence with the disruption of the supply of bulk electricity on 6 July 2018. If the parties cannot come to an agreement regarding the application we are of the intention to file, our client will have no choice but to approach the urgent court on 5 July 2018 for interim relief. Eskom cannot however complain about the extreme truncation of the time periods prescribed by the rules under circumstances where they intend to implement a decision less than four (4) days after the decision was made public – especially under circumstances where there is a history of review proceedings against those decisions. Eskom is to our mind the author of the urgency in this matter.
7. We have been informed that more than five similar urgent applications have been issued in the High Court Pretoria since end of 2017 in which Eskom was successfully interdicted. We refer you to paragraph 19 of our letter of 18 June 2018. In all of the court orders we have obtained, Eskom has been successfully interdicted.
8. Our client would like to avoid burdening the urgent court with an application where urgent relief has already been granted under materially the same circumstances as in this case. We request that Eskom settle the matter on an interim basis. If Eskom however fails to give a response to this letter and/or refuses our offer, we will proceed to file our urgent application, which will be enrolled for 5 July 2018.
9. If Eskom refuses an offer to settle the matter on an interim basis under these circumstances, we will have no choice but to apply for a special cost order on an attorney and own client basis if the parties are forced to approach the urgent court. This letter will form part of our application.
10. We trust that sanity will prevail and that Eskom will at least agree to sidestep the urgent court in order to expedite the final hearing of the dispute whilst maintaining the *status quo*.
11. This offer will remain open for acceptance until 10h00 on 3 July 2018, where after it will be automatically withdrawn.

Yours faithfully,

  
KRIEK WASSENAAR & VENTER INC  
PETER WASSENAAR – DIRECTOR  
(t) 086 596 8516  
(e) [peter@kriekprok.co.za](mailto:peter@kriekprok.co.za)

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**peter@kriekprok.co.za**

---

**From:** peter@kriekprok.co.za  
**Sent:** Monday, 02 July 2018 13:11  
**To:** 'LPExecActionTeam@eskom.co.za'  
**Cc:** 'Jani Jordaan'  
**Subject:** URGENT: - MUSINA DISRUPTION: - AFRISAKE NPC & OTHERS / ESKOM SOC LTD & OTHERS  
**Attachments:** Eskom SOC Ltd by email 2018-07-02.pdf  
**Importance:** High

Sir / Madam

**URGENT: - MUSINA DISRUPTION: - AFRISAKE NPC & OTHERS / ESKOM SOC LTD & OTHERS**

Please see attached letter as a matter of extreme urgency. Our client is of the intention to proceed with an urgent application.

Yours faithfully



Pèter Wassenaar  
Kriek Wassenaar & Venter Ing  
Direkteur / Director

- (t) (+27) 12 803 4719 (f) 086 596 8516
- (a) 1ste Vloer / 1st Floor, Norex Huis / House, Rauchlaan 79 Rauch Avenue, Georgeville, Pretoria, 0184
- (p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685 • Reg: 2012/030418/21



**KRIEK WASSENAAR & V**  
Prokureurs • Advokate • Anjoorners • Afsaamers

67  
01-68

"FAS-2"

11/5/18

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

AT PRETORIA ON THIS THE 18<sup>th</sup> DAY OF MAY 2018 BEFORE HER LadySHIP  
MS JUSTICE DIPPENAAR AJ

CASE NO: 33495/2018

In the matter between:

THE PREMIER, MPUMALANGA PROVINCE PO Box 67, Pretoria 0001 Applicant

and

2018-05-18

ESKOM HOLDINGS SOC LTD GD-PRET-021 First Respondent

GOVAN MBEKI LOCAL MUNICIPALITY Second Respondent

DIPALESENG LOCAL MUNICIPALITY Third Respondent

THE NATIONAL ENERGY REGULATOR OF  
SOUTH AFRICA ("NERSA") Fourth Respondent

THE MINISTER OF ENERGY Fifth Respondent

---

**DRAFT ORDER**

---

After reading the papers filed of record and hearing counsel, the following order  
is made:

1. The applicant is authorised to dispense with the ordinary rules relating to  
forms, service and time periods and permitted to bring this application by

01-68



way of urgency in terms of rule 6(12) of the Uniform Rules of the above Honourable Court.

2. The first respondent is interdicted and prohibited from implementing its decision to commence with the interruption and termination of the bulk electricity supply to the second and third respondents scheduled to commence at 06h00 on 21 May 2018.
3. The order in paragraph 2 will operate as an interim interdict pending:

3.1. the finalisation of this application; ~~and~~

3.2. ~~the final adjudication of the applicant's application for a review of the first respondent's decision, in terms of the Promotion of Administrative Justice Act, No 3 of 2000 ("PAJA"), to set aside the first respondent's decision to interrupt the bulk electricity supply to the second and third respondents; and~~ *It is ordered that the application proceeds in accordance with the ordinary rules, unless the parties agree otherwise*

3.3. ~~the relief in paragraph 2 above will lapse if the applicant fails to institute the aforesaid review application on or before 29 June 2018.~~

4. The first respondent is directed to pay the costs of this urgent application on the attorney and client scale, including the costs of two counsel.

Private Bag X87, Pretoria 0001

2018-05-18

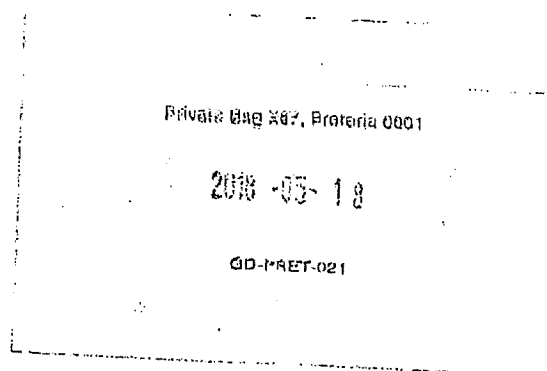
GD-PRET-021

5. The applicant is given leave to amend its notice of motion and to supplement the founding affidavit to seek such relief against the fourth respondent as it may be advised.

BY ORDER

REGISTRAR

*[Signature]*  
 H VAN EEDEN SC (082 561 0546)  
 DH WIJNBEEK (082 497 6137)  
 KT MATHOPO (078 8036756)  
 Applicants' Counsel  
 Chambers  
 SANDTON



"FAS.3"

4/5/18

IN THE HIGH COURT OF SOUTH AFRICAGAUTENG DIVISION, PRETORIAAT **PRETORIA** ON THIS THE  
MR JUSTICEDAY OF **MAY 2018** BEFORE HIS LORDSHIP**CASE NO: 28599/2018**

In the matter between:

**THE PREMIER, MPUMALANGA PROVINCE**

Applicant

and

**ESKOM HOLDINGS SOC LTD**

First Respondent

**VICTOR KHANYE LOCAL MUNICIPALITY**

Second Respondent

**THE NATIONAL ENERGY REGULATOR OF  
SOUTH AFRICA ("NERSA")**

Third Respondent

**THE MINISTER OF ENERGY**

Fourth Respondent

After reading the papers filed of record and hearing the matter, the following order is made:

1. The application to dispense with the provisions of rule 6(12) is granted and this matter is heard as one of urgency.
2. The first respondent is interdicted and prohibited from implementing its decision to commence with the interruption and termination of the bulk electricity supply to the second respondent scheduled to commence at 6h00 on 7 May 2018 ("the first respondent's decision").

DRAFT ORDER

 REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA  
 GAUTENG DIVISION  
 Private Bag X97, Pretoria 0001

2018 -05-05

GD-PRET-012

 GRIFFIN VAN DER MERWE  
 GAUTENG AFDELING  
 PRETORIA, SUID-AFRIKA

3. The order in paragraph 2 will operate as an interim interdict pending:
  - 3.1. the finalisation of this application; and
  - 3.2. the final adjudication of the applicant's application for a review of the first respondent's decision, in terms of the Promotion of Administrative Justice Act, No 3 of 2000 ("PAJA"), to set aside the first respondent's decision to interrupt the bulk electricity supply to the second respondent.
4. The relief in paragraph 2 above will lapse if the applicant fails to institute the aforesaid review application on or before 30 May 2018.
5. The first respondent is directed to pay the costs of this urgent application ~~on the attorney and client scale~~, including the costs of two counsel.
6. The applicant is given leave to amend its notice of motion and to supplement the founding affidavit to seek such relief against the third respondent as it may be advised.

**BY ORDER**

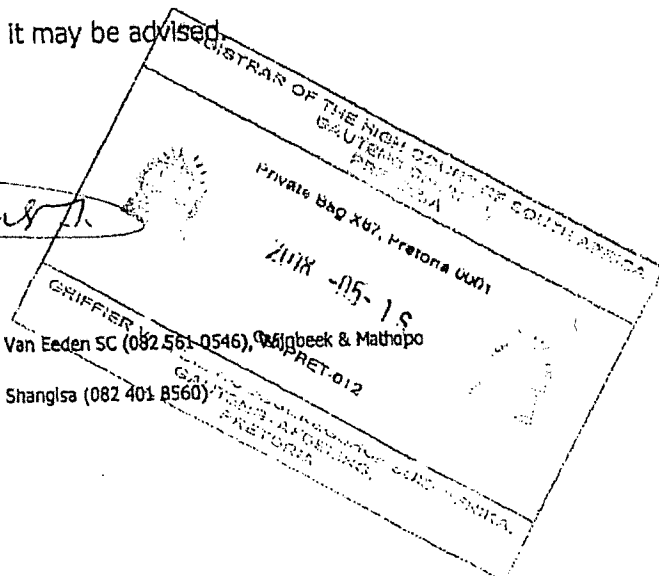
*[Signature]*  
**REGISTRAR**

Counsels for Applicant:

Van Eeden SC (082 561 0546), Wiggbeek & Mathopo

Counsel for first respondent:

Shangisa (082 401 8560)



01-73

"FA 5:4"

18/5/18

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

AT PRETORIA ON THIS THE 18<sup>th</sup> DAY OF MAY 2018 BEFORE HER LADYSHIP  
MS JUSTICE DIPPENAAR AJ

CASE NO: 33447/2018

In the matter between:

THE KGETLENGRIVIER CITIZENS	First Applicant
FAIZAL MOHAMED WADEE	Second Applicant
ISMAIL ADAM	Third Applicant
WILHELM ROCHER	Fourth Applicant
MARTIN STOLS	Fifth Applicant
RIANA ROCHER	Sixth Applicant
VONNIE ROBINSON	Seventh Applicant
and	
ESKOM HOLDINGS SOC LTD	First Respondent
KGETLENGRIVIER LOCAL MUNICIPALITY	Second Respondent
THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA ("NERSA")	Third Respondent
THE MINISTER OF ENERGY	Fourth Respondent

**DRAFT ORDER**

After reading the papers filed of record and hearing counsel, the following order  
is made:

01-73

1. The applicants are authorised to dispense with the ordinary rules relating to forms, service and time periods and permitted to bring this application by way of urgency in terms of rule 6(12) of the Uniform Rules of the above Honourable Court.
2. The first respondent is interdicted and prohibited from implementing its decision to commence with the interruption and termination of the bulk electricity supply to the second respondent scheduled to commence at 06h00 on 17 May 2018.
3. The order in paragraph 2 will operate as an interim interdict pending:

3.1. the finalisation of this application; and

3.2. *It is ordered that the application proceeds in accordance with the ordinary rules, unless the parties agree otherwise*

3.2. ~~the final adjudication of the applicant's application for a review of the first respondent's decision, in terms of the Promotion of Administrative Justice Act, No 3 of 2000 ("PAJA"), to set aside the first respondent's decision to interrupt the bulk electricity supply to the second respondent; and~~

3.3. the relief in paragraph 2 above will lapse if the applicant fails to institute the aforesaid review application on or before 29 June 2018.

Private Bag X67, Pretoria 0001

2018-05-18

GD-PRET-021

4. The first respondent is directed to pay the costs of this urgent application, including the costs reserved on 16 May 2018, on the attorney and client scale, including the costs of two counsel.
5. The applicants are given leave to amend its notice of motion and to supplement the founding affidavit to seek such relief against the third respondent as it may be advised.

**BY ORDER****REGISTRAR**

**H VAN EEDEN SC** (082 561 0546)  
**DH WIJNBEEK** (082 497 6137)  
**KT MATHOPO** (078 8036756)  
Applicants' Counsel  
Chambers  
**SANDTON**

Private Bag X67, Pretoria 0001

2018-05-18

GD-PRET-021

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

Before Judge Kondo  
12 December 2017

CASE NO 83581/2017

In the matter between:

RESILIENT PROPERTIES PROPRIETARY LIMITED

First Applicant

CHANGING TIDES 91 PROPRIETARY LIMITED

Second Applicant

RETRACTION PROPS 7 PROPRIETARY LIMITED

Third Applicant

MOGWELE TRADING 278 PROPRIETARY LIMITED

Fourth Applicant

And

ESKOM HOLDINGS SOC LIMITED

First Respondent

EMALAHLENI MUNICIPALITY

Second Respondent

MEC: CO-OPERATIVE GOVERNANCE  
& TRADITIONAL AFFAIRS (MPUMALANGA)

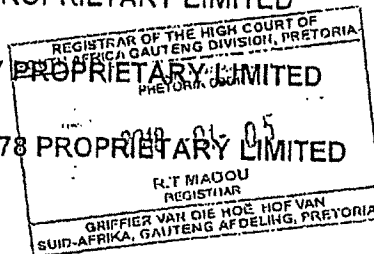
Third Respondent

MINISTER OF ENERGY

Fourth Respondent

NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

Fifth Respondent

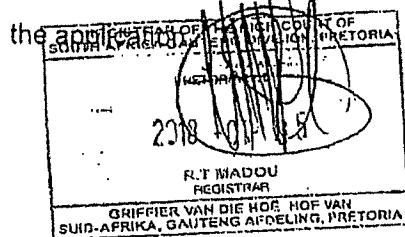


~~DRAFT ORDER~~

1. The parties agree to approach the Deputy Judge President for an expedited hearing of Part A of the application.



2. Pending finalisation of Part A of the application, the First Respondent undertakes not to interrupt the supply of electricity to the Second Respondent.
3. The costs of the appearance on 12 December 2017 will be costs in Part A of the application.





**IN THE HIGH COURT OF SOUTH AFRICA**  
**GAUTENG DIVISION, PRETORIA**

Case No.

66778/18

In the matter between:

**AFRISAKE NPC**

First Applicant

**ADRIAAN MARTHINUS APPELGRYN-  
SIEBERT**

Second Applicant

and

**ESKOM HOLDINGS SOC LTD**

First Respondent

**MUSINA LOCAL MUNICIPALITY**

Second Respondent

**THE NATIONAL ENERGY REGULATOR  
OF SOUTH AFRICA ("NERSA")**

Third Respondent

**THE MINISTER OF COOPERATIVE  
GOVERNANCE AND TRADITIONAL AFFAIRS**

Fourth Respondent

**THE MINISTER OF FINANCE**

Fifth Respondent

**THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR LOCAL GOVERNMENT,  
LIMPOPO PROVINCE**

Sixth Respondent

**THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR FINANCE IN THE  
LIMPOPO PROVINCE**

Seventh Respondent

---

**CONFIRMATORY AFFIDAVIT**

---



I, the undersigned,

Peter Johannes Wassenaar

do hereby make oath and state the following

1. I am an adult male attorney with identity number 8701255120080 and a director of Kriek Wassenaar & Venter Inc, Ranch Avenue, Georgeville, Pretoria.
2. The facts set out hereinafter fall within my personal knowledge unless the contrary appears from the text hereof.
3. I have read the founding affidavit of Piet Le Roux and I confirm the content thereof in as far as it relates to me.

DEPONENT

THUS SWORN AND SIGNED ON THIS 14 DAY OF JULY 2018 BEFORE ME ELIAN VANTEN ROEVER COMMISSIONER OF OATHS. THE DEPONENT HAVING ACKNOWLEDGED THAT HE UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT HAS NO OBJECTION IN TAKING THE OATH AND REGARDS THE OATH AS BINDING ON HIS CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF GOVERNMENT NOTICE R1218, DATED 21 JULY 1972, AS AMENDED.

NAME  
CAPACITY  
ADDRESS

COMMISSIONER OF OATHS

ELIAN VANTEN ROEVER  
Attorney-at-Law  
P.O. Box 10000  
1010, Pretoria  
Tel: 012 345 6789  
Fax: 012 345 6789  
E-mail: elian@vanterover.com

**IN THE HIGH COURT OF SOUTH AFRICA**  
**GAUTENG DIVISION, PRETORIA**

Case No: 46778/18

In the matter between:

**AFRISAKE NPC**

First Applicant

**ADRIAAN MARTHINUS APPELGRYN-  
SIEBERT**

Second Applicant

and

**ESKOM HOLDINGS SOC LTD**

First Respondent

**MUSINA LOCAL MUNICIPALITY**

Second Respondent

**THE NATIONAL ENERGY REGULATOR  
OF SOUTH AFRICA ("NERSA")**

Third Respondent

**THE MINISTER OF COOPERATIVE  
GOVERNANCE AND TRADITIONAL AFFAIRS**

Fourth Respondent

**THE MINISTER OF FINANCE**

Fifth Respondent

**THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR LOCAL GOVERNMENT,  
LIMPOPO PROVINCE**

Sixth Respondent

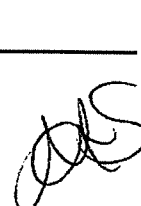
**THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR FINANCE IN THE  
LIMPOPO PROVINCE**

Seventh Respondent

---

**CONFIRMATORY AFFIDAVIT**

---



I, the undersigned,

Adriaan Marthinus Appelgryn-Siebert

do hereby make oath and state the following:

1. I am an adult male medical doctor with identity number 8203185004084 practising as a general practitioner 7 at Limpopolaan, Musina, 0900.
2. The facts set out hereinafter fall within my personal knowledge unless the contrary appears from the text hereof.
3. I confirm that I am the second applicant in the application and confirm the relief sought, in as far as it relates to me.
4. I have read the founding affidavit of Piet Le Roux and I confirm the content thereof in as far as it relates to me.

  
DEPONENT

THUS SWORN AND SIGNED ON THIS 4th DAY OF JULY  
2018 BEFORE ME AT MUSINA COMMISSIONER OF OATHS,  
THE DEPONENT HAVING ACKNOWLEDGED THAT HE UNDERSTANDS  
THE CONTENTS OF THIS AFFIDAVIT, HAS NO OBJECTION IN TAKING  
THE OATH AND REGARDS THE OATH AS BINDING ON HIS  
CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF  
GOVERNMENT NOTICE R1258, DATED 21 JULY 1972, AS AMENDED.

  
COMMISSIONER OF OATHS

NAME:  
CAPACITY:  
ADDRESS:

**WIETS BEUKES**  
Commissioner of Oaths - Kommissaris van Ede  
Practitioning Attorney - Praktiserende Prokureur  
PO Box 1655 / Posbus 1655  
17 Irwin Street / Irwinstraat 17  
MUSINA 0900

**IN THE HIGH COURT OF SOUTH AFRICA**  
**GAUTENG DIVISION, PRETORIA**

Case No: 46778/2011

In the matter between:

**AFRISAKE NPC**

First Applicant

**ADRIAAN MARTHINUS APPELGRYN-  
SIEBERT**

Second Applicant

and

**ESKOM HOLDINGS SOC LTD**

First Respondent

**MUSINA LOCAL MUNICIPALITY**

Second Respondent

**THE NATIONAL ENERGY REGULATOR  
OF SOUTH AFRICA ("NERSA")**

Third Respondent

**THE MINISTER OF COOPERATIVE  
GOVERNANCE AND TRADITIONAL AFFAIRS**

Fourth Respondent

**THE MINISTER OF FINANCE**

Fifth Respondent

**THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR LOCAL GOVERNMENT,  
LIMPOPO PROVINCE**

Sixth Respondent

**THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR FINANCE IN THE  
LIMPOPO PROVINCE**

Seventh Respondent

**SERVICE AFFIDAVIT**

- 2 -

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I, the undersigned,

**JANI JORDAAN**

do hereby make oath and state the following:

1. I am an adult female attorney practising under the name and style of Kriek Wassenaar & Venter Incorporated situated at 1<sup>st</sup> Floor Norex House, 79 Rauch Avenue, Georgeville.
2. The facts set out hereinafter fall within my personal knowledge unless the contrary appears from the text hereof.
3. I depose of this affidavit in terms of rule 4(6).
4. I confirm that I personally served the notice of motion, founding affidavit and confirmatory affidavits of the applicant by forwarding an e-mail to the First Respondent to the following email addresses on 4 July 2018 between 11h35 and 11h48. Copies of the emails are attached hereto as annexure "JJ1 - JJ7":
  - 4.1.1 [publicnwr@eskom.co.za](mailto:publicnwr@eskom.co.za);
  - 4.1.2 [NoorbhFB@eskom.co.za](mailto:NoorbhFB@eskom.co.za);
  - 4.1.3 [KettleME@eskom.co.za](mailto:KettleME@eskom.co.za);
  - 4.1.4 [TumaneA@eskom.co.za](mailto:TumaneA@eskom.co.za);
  - 4.1.5 [BarutiME@eskom.co.za](mailto:BarutiME@eskom.co.za);
  - 4.1.6 [brownli@eskom.co.za](mailto:brownli@eskom.co.za);



- 3 -

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4.1.7 LPExecActionTeam@eskom.co.za;

4.2 I confirm that the e-mail addresses listed in paragraph 4.1.1 to paragraph 4.1.5 were obtained from previous applications against the First Respondent.

4.3 The e-mail address in paragraph 4.1.6 was confirmed by Wilma Clifford switchboard operator for the First Respondent during a telephonic conversation on 3 July 2018.

4.4 The First Respondent acknowledged receipt of the Application on 4 July 2018 at 11h50. In this regard I attach hereto an email received from brownli@eskom.co.za as annexure "JJ8".

4.5 I further confirm that I personally served the notice of motion, founding affidavit with all the annexures and confirmatory affidavits of the applicant by forwarding an e-mail on 4 July 2018 to the 2<sup>nd</sup> Respondent to the following email addresses. Copies of the emails are attached hereto as annexure "JJ9 - JJ12":

4.3.1 info@musina.gov.za;

4.3.2 musinamm@limpopo.co.za;

4.3.3 mimieb@musina.gov.za;

4.3.4 nathit@musina.gov.za.

  
01-84



- 4 -

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4.4 I confirm that the e-mail addresses in paragraph 4.3.1 and 4.3.2 were obtained from the Musina Local Municipalities website [www.musina.gov.za](http://www.musina.gov.za).

4.5 I further confirm that the e-mail addresses in paragraph 4.3.3 and paragraph 4.3.4 was confirmed by Mimi Boa from the Musina municipal manager's office during a telephonic conversation on 3 July 2018.

4.6 On 4 July after sending the e-mails to the addresses listed in paragraph 4.3.1 to 4.3.4 I phoned the municipal manager's office and spoke to Nathaniel Kgatla. During the telephonic conversation Mr Kgatla confirmed that he received the e-mails.

4.7 I further received 3 (three) read receipts from the municipal manager's offices attached hereto as annexure "JJ13" - "JJ15".

4.8 I confirm that I personally served the notice of motion, founding affidavit with all the annexures and confirmatory affidavits of the applicant by forwarding e-mails to the 3rd Respondent on 4 July 2018 to the following email addresses. Copies of the emails are attached hereto as annexure "JJ16" - "JJ20":

4.7.1 [izanne.martins@nersa.org.za](mailto:izanne.martins@nersa.org.za);

4.7.2 [juanita.vermaak@nersa.org.za](mailto:juanita.vermaak@nersa.org.za);

  
01-85

- 5 -

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- 4.7.3      sandile.dlamini@nersa.org.za;
- 4.7.4      sithembile.dhlamini@nersa.org.za;
- 4.7.5      mosibudi.ralematha@nersa.org.za.

4.9 I further confirm that the e-mail addresses in paragraph 4.7.1 to paragraph 4.7.3 was confirmed by switchboard operator Ntabiseng Lethule from the offices of the Third Respondent on 3 July 2018 during a telephonic conversation.

4.10 On 4 July 2018 after sending the e-mails, to the addresses listed in paragraph 4.7.1 to paragraph 4.7.3, I phoned the offices of the Third Respondent and spoke to Juanita Vermaak assistant to the Chief Financial Officer and she informed me that she received the e-mail.

4.11 I further phoned Izanne Martins assistant to the Chief Executive Officer of the Third Respondent to confirm receipt of the e-mail and Sithembile Dhlamini, office administrator, answered and stated that she is standing in for Izanne Martins and stated that I must send the letter to sithembile.dhlamini@nersa.org.za .

4.12 After e-mailing the application to Sithembile Dhlamini I phoned and confirmed that she received the e-mail. I also received a sent report attached hereto as annexure "JJ21".



01-86


- 6 -

4.13 On 4 July 2018 I also proceeded to phone the legal department of the Third Respondent and I spoke to Mosibudi Ralematha she indicated that Sandile Dlamini was not in the office. She provided me with her e-mail address and requested that I forward the e-mail to mosibudi.ralematha@nersa.org.za.

4.14 I proceeded to forward the e-mail to the above mentioned address and after sending same I phoned Ms Ralematha and she confirmed receipt.

4.15 I further confirm that Jacoba Brits a legal secretary at Kriek Wassenaar & Venter Inc under my instruction and supervision sent the notice of motion, founding affidavit with all the annexures and the confirmatory affidavits to the Third Respondent via fax. A copy of the fax delivery report is attached hereto as annexure "JJ22".

4.16 The above mentioned fax number was confirmed during a telephonic conversation with Juanita Vermaak assistant to the Chief Financial Officer on 3 July 2018.

  
DEPONENT

THUS SWORN AND SIGNED ON THIS 5<sup>th</sup> DAY OF July  
2018 BEFORE ME HJ Kloppers COMMISSIONER OF OATHS,  
THE DEPONENT HAVING ACKNOWLEDGED THAT SHE UNDERSTANDS



  
01-87

- 7 -

THE CONTENTS OF THIS AFFIDAVIT, HAS NO OBJECTION IN TAKING  
THE OATH AND REGARDS THE OATH AS BINDING ON HER  
CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF  
GOVERNMENT NOTICE R1258, DATED 21 JULY 1972, AS AMENDED.

Before me: \_\_\_\_\_

\_\_\_\_\_  
COMMISSIONER OF OATHS

NAME:

HENDRIK JACOBUS KLOPPERS  
COMMISSIONER OF OATHS OF OATHS

CAPACITY:

PRACTISING ATTORNEY RSA  
PLOT 13 RIETFontein KIEPERSOL STREET  
RAYTON, DISTRICT CULLINUN

ADDRESS:

SEL: 082 871 4949

AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:35 VM.  
**To:** publicnwr@eskom.co.za

"JJ1"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards

--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

• (t) [\(+27\) 12 803 4719](tel:+27128034719) • (f) [\(+27\) 86 596 8801](tel:+27865968801)

• (a) 1ste Vloer / 1st Floor, Norex Huis / House, Rauchlaan 79 Rauch Avenue, Georgeville, Pretoria, 0184

• (p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685 • Reg:  
2012/030418/21



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— Attachments: —

Application issued at court 2018-07-04.pdf

1.8 MB

2018/07/04 12

AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:37 VM.  
**To:** NoorbhFB@eskom.co.za

"JJZ"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

• (t) [\(+27\) 12 803 4719](tel:+27128034719) • (f) [\(+27\) 86 596 8801](tel:+27865968801)

• (a) 1ste Vloer / 1st Floor, Norex Huis / House, Rauchlaan 79 Rauch Avenue, Georgeville, Pretoria, 0184

• (p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685 • Reg:  
2012/030418/21



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1 of 1

2018/07/04 12

AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:36 VM.  
**To:** KettleME@eskom.co.za

"JJ3"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards



Jani Jordaan

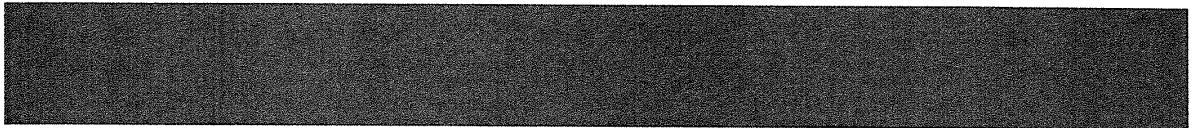
Kriek Wassenaar & Venter Ing

Prokureur / Attorney

• (t) [\(+27\) 12 803 4719](tel:+27128034719) • (f) [\(+27\) 86 596 8801](tel:+27865968801)

• (a) 1ste Vloer / 1st Floor, Norex Huis / House, Rauchlaan 79 Rauch Avenue, Georgeville, Pretoria, 0184

• (p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685 • Reg:  
2012/030418/21



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2018/07/04 12

AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:38 VM.  
**To:** TumaneA@eskom.co.za

"JJ4"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards

--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

• (t) [\(+27\) 12 803 4719](tel:+27128034719) • (f) [\(+27\) 86 596 8801](tel:+27865968801)

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1 of 1

2018/07/04 02:



AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT

**From:** Jani Jordaan <jani@kriekprok.co.za>

**Date:** 2018/07/04 11:39 VM.

**To:** BarutiME@eskom.co.za

"JJ5"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards

--  
--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

• (t) [\(+27\) 12 803 4719](tel:+27128034719) • (f) [\(+27\) 86 596 8801](tel:+27865968801)

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2018/07/04 12:

AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:40 VM.  
**To:** brownli@eskom.co.za

"JJ6"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards

--

--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

• (t) [\(+27\) 12 803 4719](tel:+27128034719) • (f) [\(+27\) 86 596 8801](tel:+2712865968801)

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2018/07/04 12

AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:48 VM.  
**To:** LPExecActionTeam@eskom.co.za

"JJJ"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

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2018/07/04 12:

RE: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 ...

**Subject:** RE: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT

**From:** Liza Brown <BrownLI@eskom.co.za>

**Date:** 2018/07/04 11:50 VM.

**To:** Jani Jordaan <jani@kriekprok.co.za>

**CC:** Mamiki Nkuna <NkunaMJ@eskom.co.za>, Hendrick Thwala <ThwalaH@eskom.co.za>, Rachel Sebola <SebolaRR@eskom.co.za>, Tendani Moloto <MolotoT@eskom.co.za>, Mohlago Masekela <MasekeMP@eskom.co.za>

Good day

I confirm receipt of this application.

Please note that the persons copied herein are working on this matter and you can send further information to them.

Regards

Liza Brown  
Corporate Specialist (Legal and Compliance)  
Legal and Compliance Department  
Eskom Holdings SOC Ltd  
Megawatt Park D2/Y30 Maxwell Drive Sunninghill Sandton  
Tel: +27 (0)11 800 3514  
Fax: +27 (0)86 667 9012  
E-mail: [liza.brown@eskom.co.za](mailto:liza.brown@eskom.co.za)

"JJ8"



Signature Version 02/07/2018 08:00

**From:** Jani Jordaan [mailto:jani@kriekprok.co.za]

**Sent:** 04 July 2018 11:41 AM

**To:** Liza Brown

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards

2018/07/05 08

RE: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 ...

--  
--



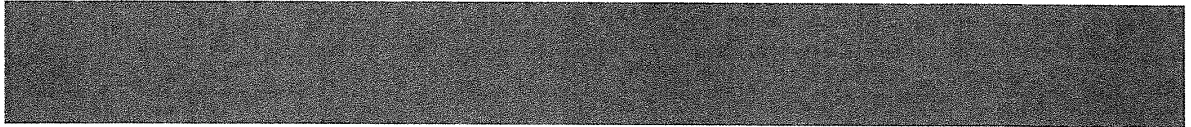
Jani Jordaan  
Kriek Wassenaar & Venter Ing  
Prokureur / Attorney

• (t) (+27) 12 803 4719 • (f) (+27) 86 596 8801

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2018/07/05 0E

AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:43 VM.  
**To:** info@musina.gov.za

11559"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards

--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

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2018/07/04 12



AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:44 VM.  
**To:** musinamm@limpopo.co.za

"JJ10"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards

--  
--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

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AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 12:01 NM.  
**To:** mimieb@musina.gov.za

"JJ"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards

--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

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2018/07/04 12



AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT

**From:** Jani Jordaan <jani@kriekprok.co.za>

**Date:** 2018/07/04 11:59 VM.

**To:** nathit@musina.gov.za

"JJ12"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards

--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

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Read: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & ...

**Subject:** Read: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Mimie Boa <mimieb@musina.gov.za>  
**Date:** 2018/07/04 12:54 NM.  
**To:** Jani Jordaan <jani@kriekprok.co.za>

"JJ13"

Your message

To: Mimie Boa  
Subject: Fwd: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
Sent: Wednesday, July 4, 2018 12:49:57 PM (UTC+02:00) Harare, Pretoria

was read on Wednesday, July 4, 2018 12:54:25 PM (UTC+02:00) Harare, Pretoria.

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X-MSEch-Correlation-Key: 7I9Af1mEAUqmRnhVDfEY3w==  
X-Display-Name: Mimie Boa

  
2018/07/04 01

Read: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & ...

**Subject:** Read: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Mimie Boa <mimieb@musina.gov.za>  
**Date:** 2018/07/04 12:57 NM.  
**To:** Jani Jordaan <jani@kriekprok.co.za>

"JJ14"

Your message

To: Mimie Boa  
Subject: Fwd: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
Sent: Wednesday, July 4, 2018 12:50:26 PM (UTC+02:00) Harare, Pretoria

was read on Wednesday, July 4, 2018 12:57:12 PM (UTC+02:00) Harare, Pretoria.

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X-Display-Name: Mimie Boa



2018/07/04 01:

Read: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & ...

**Subject:** Read: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Mimie Boa <mimieb@musina.gov.za>  
**Date:** 2018/07/04 12:57 NM.  
**To:** Jani Jordaan <jani@kriekprok.co.za>

"JJ15"

Your message

To: Mimie Boa  
Subject: AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
Sent: Wednesday, July 4, 2018 12:01:41 PM (UTC+02:00) Harare, Pretoria

was read on Wednesday, July 4, 2018 12:57:15 PM (UTC+02:00) Harare, Pretoria.


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Disposition: automatic-action/MDN-sent-automatically; displayed  
X-MSExch-Correlation-Key: PUCSxSQcckemjk+wveoeDA==  
X-Display-Name: Mimie Boa

  
2018/07/04 01:

AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:45 VM.  
**To:** izanne.martins@nersa.org.za

"JJ16"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards



Jani Jordaan

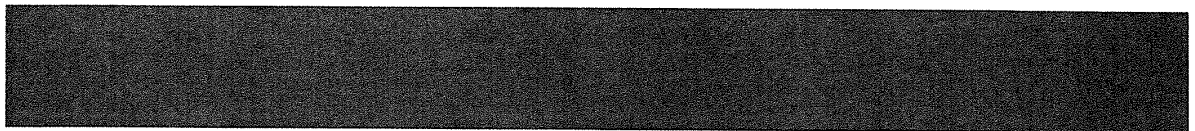
Kriek Wassenaar & Venter Ing

Prokureur / Attorney

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2018/07/04 12

AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:46 VM.  
**To:** juanita.vermaak@nersa.org.za

"JJ17"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards



Jani Jordaan

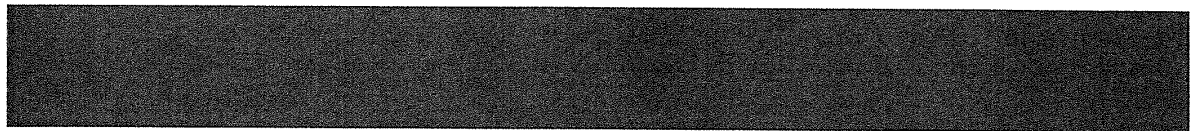
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Prokureur / Attorney

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AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTH...

**Subject:** AFRISAKE NPC & 1 OTHER/ESKOM HOLDINGS SOC LTD & 6 OTHERS - URGENT  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 11:47 VM.  
**To:** sandile.dlamini@nersa.org.za

"JJ18"

Good day

Kindly see attached the urgent application in which you are a Respondent.

Regards

--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

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2018/07/04 12



Afrisake NPC & 1 Other/ Eskom Soc (Pty) Ltd & 6 others

**Subject:** Afrisake NPC & 1 Other/ Eskom Soc (Pty) Ltd & 6 others  
**From:** Jani Jordaan <jani@kriekprok.co.za>  
**Date:** 2018/07/04 01:19 NM.  
**To:** sithembile.dhlamini@nersa.org.za

"JJ19"

Good day

Kindly find attached an urgent application in which you are a Respondent.

Regards

--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

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Afrisake NPC & 1 OTHER/ESKOM SOC (PTY) LTD & 6 OTHERS - ...

**Subject:** Afrisake NPC & 1 OTHER/ESKOM SOC (PTY) LTD & 6 OTHERS - URGENT

**From:** Jani Jordaan <jani@kriekprok.co.za>

**Date:** 2018/07/04 01:07 NM.

**To:** mosibudi.ralematha@nersa.org.za

"JJ20"

Good day

Kindly find attached urgent application in which you are a Respondent.

Regards

--



Jani Jordaan

Kriek Wassenaar & Venter Ing

Prokureur / Attorney

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2018/07/04 01

Read: Afrisake NPC & 1 Other/ Eskom Soc (Pty) Ltd & 6 others

**Subject:** Read: Afrisake NPC & 1 Other/ Eskom Soc (Pty) Ltd & 6 others  
**From:** Sithembile Dhlamini <Sithembile.Dhlamini@nersa.org.za>  
**Date:** 2018/07/04 01:22 NM.  
**To:** Jani Jordaan <jani@kriekprok.co.za>

"JJ21"

Your message

To: Sithembile Dhlamini  
Subject: Afrisake NPC & 1 Other/ Eskom Soc (Pty) Ltd & 6 others  
Sent: Wednesday, July 04, 2018 1:19:27 PM (UTC+02:00) Harare, Pretoria

was read on Wednesday, July 04, 2018 1:21:52 PM (UTC+02:00) Harare, Pretoria.

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Final-recipient: RFC822; [Sithembile.Dhlamini@nersa.org.za](mailto:Sithembile.Dhlamini@nersa.org.za)  
Disposition: automatic-action/MDN-sent-automatically; displayed  
X-MSEch-Correlation-Key: Jy+1bgpc2ky/4Gu8A2KWWw==  
X-Display-Name: Sithembile Dhlamini



2018/07/04 01

Fwd: AFRICAKE NPC & 1 OTHER/ ESKOM SOC (PTY) LTD & 6 O...

**Subject:** Fwd: AFRISAKE NPC & 1 OTHER/ ESKOM SOC (PTY) LTD & 6 OTHERS  
**From:** Jansie Swart <kontak@kriekprok.co.za>  
**Date:** 2018/07/04 12:11 PM  
**To:** 0124014700@faxemail.co.za

"JJ21"

Good day

Kindly find attached urgent application in which you are a Respondent.

Regards



JANSIE BRITS

Kriek Wassenaar & Venter Ing

Regsekretaresse / Legal Secretary

- (t) (+27) 12 803 4719 • (f) (+27) 86 596 8797
- (a) 1ste Vloer / 1st Floor, Norex Huis / House, Rauchlaan 79 Rauch Avenue, Georgeville, Pretoria, 0184
- (p) Postnet Suite # A7, Privaatsak / Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685 • Reg: 2012/030418/21



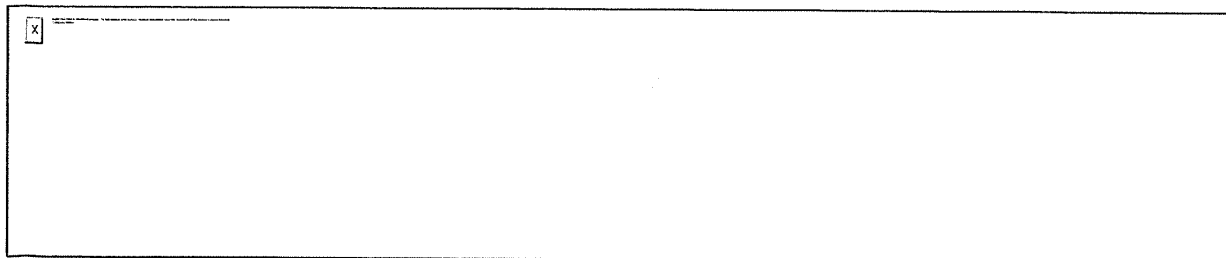
— Attachments: —

Application issued at court 2018-07-04.pdf

1.8 MB

**Yolande Stemmet**

**From:** Web2Fax Admin <admin@faxemail.co.za>  
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Fax Job ID: 3783134		Time Fax Out: 2018-07-04 12:33:52	
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Comments:	Good day Kindy find attached urgent application in which you are a Respondent Regards if [vm]>[part1.BD25CF95.5222FF5F@krikprok]endif> Kriek Wassenaar & Venter Ing Ontvangs / Reception (t) (+27) 12 803 4719(f) (+27) 86 596 8797 (a) 1ste Vloer / 1st Floor, Norex Huis / House, Rauchlaan 79 Rauch Avenue, Georgeville, Pretoria, 0184 (p) Postnet Suite A7, Privaatsak / Private Bag X592, Silverton, 0127BTW Reg: 4020260685Reg: 2012/030418/21 [cid:part2.65159829.D1AB3E1A@krikprok.co.za]	Number of Pages:	82
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**K**  
KRIEK WASSENAAR & VENTER INC  
Prokuratuur • Advokaatskantoor • Attorneys • Conveyancers  
**623**  
(T) 012 756 7566  
(F) 086 596 8797

IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, PRETORIA)

COPY 6

CASE NUMBER: 46778/2018

IN THE MATTER BETWEEN:

AFRISAKE NPC

FIRST APPLICANT

ADRIAAN MARTHINUS APPELGRYN-  
SIEBERT

SECOND APPLICANT

AND

ESKOM HOLDINGS SOC LTD

FIRST RESPONDENT

MUSINA LOCAL MUNICIPALITY

SECOND RESPONDENT

THE NATIONAL ENERGY REGULATOR  
OF SOUTH AFRICA ("NERSA")

THIRD RESPONDENT

THE MINISTER OF COOPERATIVE  
GOVERNANCE AND TRADITIONAL AFFAIRS

FOURTH RESPONDENT

THE MINISTER OF FINANCE

FIFTH RESPONDENT

THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR LOCAL GOVERNMENT,  
LIMPOPO PROVINCE

SIXTH RESPONDENT

THE MEMBER OF THE EXECUTIVE  
COMMITTEE FOR FINANCE IN THE  
LIMPOPO PROVINCE

SEVENTH RESPONDENT


---

NOTICE OF REMOVAL FROM THE ROLL

---

KINDLY TAKE NOTICE that the Applicants hereby remove part A2 of the application enrolled for **24 July 2018** from the roll, costs reserved.

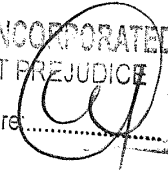
SIGNED at PRETORIA on this the 16<sup>th</sup> day of July 2018.



**KRIEK WASSENAAR & VENTER INC**  
ATTORNEYS FOR THE APPLICANTS  
NOREX HOUSE, 79 RAUCH AVENUE  
GEORGEVILLE, PRETORIA  
TEL: 012 803 4719, FAX: 086 596 8516  
REF: P WASSENAAR/J JORDAAN/QB0387

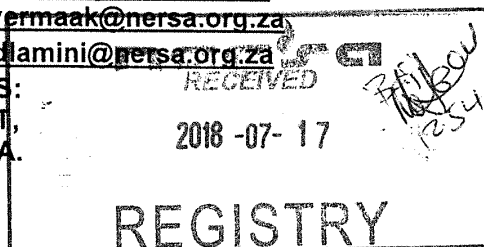
TO: THE REGISTRAR OF THE HIGH COURT  
PRETORIA

AND TO: THE FIRST RESPONDENT  
UNIT C - C50  
BROOKLYN OFFICE PARK  
488 FEHRSEN STREET  
BROOKLYN  
PRETORIA  
REF: MR T NGENO/8146/LIT  
BY HAND

NGENO AND MTETO INCORPORATED  
RECEIVED WITHOUT PREJUDICE  
Date: 17/07/18 Signature:   
Time: 13:26

AND TO: THE SECOND RESPONDENT  
BY E-MAIL: [nathit@musina.gov.za](mailto:nathit@musina.gov.za)  
BY E-MAIL: [mimieb@musina.gov.za](mailto:mimieb@musina.gov.za)

AND TO: THE THIRD RESPONDENT  
BY E-MAIL: [izanne.martins@nersa.org.za](mailto:izanne.martins@nersa.org.za)  
BY E-MAIL: [juanita.vermaak@nersa.org.za](mailto:juanita.vermaak@nersa.org.za)  
BY E-MAIL: [sandile.dlamini@nersa.org.za](mailto:sandile.dlamini@nersa.org.za)  
PHYSICAL ADDRESS:  
526 MADIBA STREET,  
ARCADIA, PRETORIA.  
BY HAND



AND TO: THE FOURTH RESPONDENT  
C/O THE STATE ATTORNEY,  
SALU BUILDING,  
316 THABO SEHUME STREET,  
PRETORIA.  
REF: 46778/2018/C MAHLELA  
BY HAND

<b>STATE ATTORNEY</b>	
RECEPTION	
2018 -07- 17	
PRIVATE BAG/PRIVAATSAK X91 PRETORIA 0001	(7)
<b>STAATSPROKUREUR</b>	

AND TO: THE FIFTH RESPONDENT  
C/O THE STATE ATTORNEY,  
SALU BUILDING,  
316 THABO SEHUME STREET,  
PRETORIA.  
REF: 46778/2018/C MAHLELA  
BY HAND

<b>STATE ATTORNEY</b>	
RECEPTION	
2018 -07- 17	
PRIVATE BAG/PRIVAATSAK X91 PRETORIA 0001	(7)
<b>STAATSPROKUREUR</b>	

AND TO: THE SIXTH RESPONDENT  
C/O THE STATE ATTORNEY,  
SALU BUILDING,  
316 THABO SEHUME STREET,  
PRETORIA.  
REF: 46778/2018/C MAHLELA  
BY HAND

<b>STATE ATTORNEY</b>	
RECEPTION	
2018 -07- 17	
PRIVATE BAG/PRIVAATSAK X91 PRETORIA 0001	(7)
<b>STAATSPROKUREUR</b>	

AND TO: THE SEVENTH RESPONDENT  
C/O THE STATE ATTORNEY,  
SALU BUILDING,  
316 THABO SEHUME STREET,  
PRETORIA.  
REF: 46778/2018/C MAHLELA  
BY HAND

<b>STATE ATTORNEY</b>	
RECEPTION	
2018 -07- 17	
PRIVATE BAG/PRIVAATSAK X91 PRETORIA 0001	(7)
<b>STAATSPROKUREUR</b>	



**IN THE HIGH COURT OF SOUTH AFRICA  
[GAUTENG DIVISION, PRETORIA]**

**CASE NO: 46778/2018**

In the matter between :-

**AFRISAKE NPC**

Applicant

**ADRIAAN MARTHINUS APPELGRYN-SIEBERT**

Second Respondent

and

**ESKOM HOLDINGS SOC LIMITED**

First Respondent

**MUSINA LOCAL MUNICIPALITY**

Second Respondent

**THE NATIONAL ENERGY REGULATOR OF  
SOUTH AFRICA ("NERSA")**

Third Respondent

**THE MINISTER OF COOPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS**

Fourth Respondent

**THE MINISTER OF FINANCE**

Fifth Respondent

**THE MEMBER OF THE EXECUTIVE COMMITTEE  
FOR LOCAL GOVERNMENT, LIMPOPO PROVINCE**

Sixth Respondent

**THE MEMBER OF THE EXECUTIVE COMMITTEE  
FOR FINANCE IN THE LIMPOPO PROVINCE**


Seventh Respondent

**NOTICE OF INTENTION TO OPPOSE**

**BE PLEASED TO TAKE NOTICE THAT** the Fifth Respondent hereby file his Notice of Intention to oppose the application and that he appoints the undermentioned address of his attorney for the service upon him of any pleadings or other documents in this application .



DATED at PRETORIA on this 25<sup>th</sup> day of JULY 2018.



**STATE ATTORNEY PRETORIA**  
**ATTORNEY FOR 6<sup>TH</sup> RESPONDENTS**  
SALU BUILDING  
255 FRANCIS BAARD STREET  
PRETORIA, 0001  
**Ref:** 3851/18/Z32  
**Tel:** (012) 309 1575  
**Fax:** (012) 309 1641/2  
**Enq:** Ms. Thembelihle Nhlanzi

**TO: THE REGISTRAR OF THE HIGH COURT  
PRETORIA**

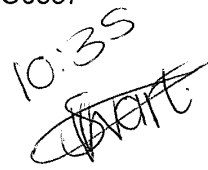
**AND  
TO:**

**KRIEK WASSENNAR & VENTER INC.**  
**APPLICANT'S ATTORNEYS**

First Floor  
Norex House  
79 Rauch Avenue  
Georgeville  
Ref" P Wassennar/ J Jordaan/QBO0387  
Tel: 012 656 7566  
Email: jani@kriekprok.co.za

**KRIEK WASSENAAR & VENTER ING**

Rauchlaan 79, Georgeville, Pretoria  
(T): 012 756 7566 / 012 753 1193 (F) 086 596 8797  
Postnet Suite #A7, Privaatsak X592  
Silverton, 0127

10:35  


2018-07-25