

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 46214/21

In the matter between:

**THE SOUTH AFRICAN LOCAL GOVERNMENT
ASSOCIATION**

Applicant

ESKOM HOLDINGS SOC LIMITED

First Respondent

MINISTER OF MINERAL RESOURCES AND ENERGY

Second Respondent

**THE MINISTER OF CO-OPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS**

Third Respondent

MINISTER OF PUBLIC ENTERPRISES

Fourth Respondent

NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

Fifth Respondent

SASOL CHEMICAL INDUSTRIES (PTY) LTD

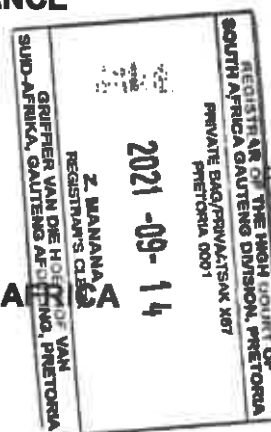
Sixth Respondent

WEST RAND POWER DISTRIBUTORS CC

Seventh Respondent

VLEESBAAI DIENSTE (PTY) LTD

Eighth Respondent



SOUTH AFRICAN NATIONAL PARKS

Ninth Respondent

**MPUMALANGA ECONOMIC GROWTH AGENCY
DAMPLAAS KRAGBRON (PTY) LTD**

**Tenth Respondent
Eleventh Respondent**

AECI

Twelfth Respondent

ITHALA SOC LIMITED

Thirteenth Respondent

NOTICE OF MOTION

KINDLY TAKE NOTICE THAT the abovenamed Applicant intends applying on _____ at 10h00 or as soon thereafter as counsel for the Applicant may be heard for an order in the following terms:

1. It be declared that:
 - 1.1 Municipalities have exclusive executive authority to reticulate electricity within their jurisdictions;
 - 1.2 The distribution and supply of electricity by ESKOM in municipal jurisdictions amounts to reticulation of electricity and the provision of a municipal service which requires a Service Delivery Agreement to be entered into between ESKOM and the respective municipalities, in terms of section 76 of the Local Government: Municipal Systems Act 32 of 2000;
 - 1.3 On account of their executive authority to reticulate electricity, and their right to govern the affairs of their communities, municipalities have the power to request

ESKOM to enter into Service Delivery Agreements with the municipalities in order for the former to reticulate electricity within the latter's jurisdictions.

2. No order as to costs, unless this application is opposed in which case the party so opposing shall pay the costs.
3. Further and/or alternative relief.

AND KINDLY TAKE NOTICE THAT the Applicant intends relying on the affidavit of **XOLILE GEORGE** and annexures thereto in support thereof.

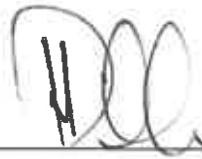
AND KINDLY TAKE NOTICE THAT the Applicant has appointed **DIALE MOGASHOA ATTORNEYS** as its attorneys of record with offices located at the address below at which address (including email) the applicants will accept service of all notices and process in these proceedings.

TAKE NOTICE FURTHER that should any of the Respondents wish to oppose this application, they are required:

- 1) Within five (5) days of receipt of this notice of motion and accompanying affidavit, to deliver a notice to the Applicant's attorneys, expressing an intention to oppose;
- 2) If not having done so, to appoint attorneys in such notice with an address as required by rule 6(5)(b), at which address you will accept service of all notices and processes in these proceedings.

- 3) Within 15 (days) days of delivery of the notice of opposition, to deliver such affidavit, if any, in answer to the allegations made by the Applicant.

DATED AT PRETORIA ON THIS 13TH DAY OF SEPTEMBER 2021



DIALE MOGASHOA ATTORNEYS

Attorneys for the Applicant

1st and 2nd Floors, Menlyn Corner

87 Frikkie de Beer Street

Menlyn

Pretoria

Tel: 012 346 5436/5959

REF: Y PILLAY/ljg/M13237

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

AND TO: ESKOM HOLDINGS SOC LIMITED
First Respondent
Megawatt Park
Maxwell Drive
Sandton
Johannesburg
2157

AND TO: MINISTER OF MINERAL RESOURCES AND ENERGY

Second Respondent

Block 2C, Floor 4

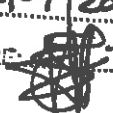
71 Trevenna Campus

Meintjies and Francis Baard Streets

Sunnyside

Pretoria

0002

RECEIVED BY THE DIRECTORATE
LEGAL SERVICES
DEPARTMENT OF MINERAL RESOURCES
DATE: 30/09/2021 TIME: 12:19
SIGNATURE:  Tshepo Motswini

**AND TO: THE MINISTER OF CO-OPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS**

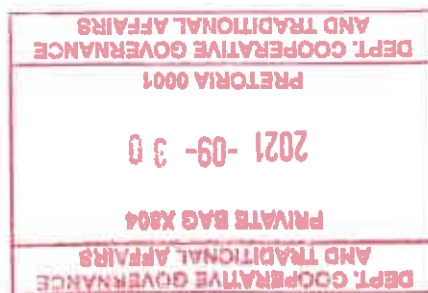
Third Respondent

87 Hamilton Street,

Arcadia

Pretoria

0083





AND TO: MINISTER OF PUBLIC ENTERPRISES

Fourth Respondent

71 Trevenna Campus

87 Hamilton Street,

Arcadia

Pretoria

0083

 30/9/2021

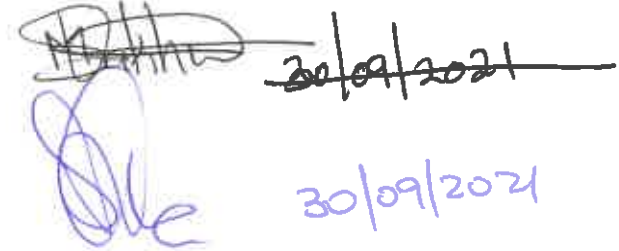
AND TO: NATIONAL ENERGY REGULATOR OF SOUTH AFRICA**Fifth Respondent**

526 Madiba Street

Arcadia

Pretoria

0083



Handwritten signature and date 30/09/2021. The date is written in black ink and is underlined. There is also a blue ink signature and the date 30/09/2021 written below it.

AND TO: SASOL CHEMICAL INDUSTRIES (PTY) LTD**Sixth Respondent**

50 Katherine Street

Sandton

2196

AND TO: WEST RAND POWER DISTRIBUTORS CC**Seventh Respondent**1st Floor, Minerva Building

65 Ockerse Street

Krugersdorp

Gauteng

1739

AND TO: VLEESBAAI DIENSTE (PTY) LTD**Eight Respondent**

5 Jakob van Rensburg Street

Vleesbaai

Mossel Bay

Western Cape

6506


AND TO: SOUTH AFRICAN NATIONAL PARKS**Ninth Respondent**

643 Leyds Street

Muckleneuk

Pretoria

0002


30/09/2021**AND TO: MPUMALANGA ECONOMIC GROWTH AGENCY****Tenth Respondent**

ABSA Square Building

20 Paul Kruger Street

Mbombela

1201

AND TO: DAMPLAAS KRAGBRON (PTY) LTD**Eleventh Respondent**

31 van Riebeeck Street

Petrus Steyn

Free State Province

9640

AND TO: AECI**The twelfth respondent**

AECI Place

24 The Woodlands, Woodlands Drive

Woodmead

Sandton

2157

ANDTO: ITHALA SOC LIMITED
The thirteenth respondent
Ithala Trade Centre,
29 Canal Quay Road Point
Waterfront
Durban
4001

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: _____

In the matter between:

**THE SOUTH AFRICAN LOCAL GOVERNMENT
ASSOCIATION**

Applicant

and

ESKOM HOLDINGS SOC LIMITED

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Second Respondent

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Eighth Respondent

X.S.

SOUTH AFRICAN NATIONAL PARKS

Ninth Respondent

MPUMALANGA ECONOMIC GROWTH AGENCY

Tenth Respondent

DAMPLAAS KRAGBRON (PTY) LTD

Eleventh Respondent

AECI

Twelfth Respondent

ITHALA SOC LIMITED

Thirteenth Respondent

FOUNDING AFFIDAVIT

I, the undersigned,

XOLILE GEORGE

do hereby state under oath that:

1. The facts deposed to herein are, save where the contrary appears from the context, within my personal knowledge and are to the best of my belief both true and correct.
2. I am an adult male and Chief Executive Officer of the South African Local Government Association with principle place of business at Menlyn Corporate Park
Block B, 175 Corobay Avenue, corner Garsfontein and Corobay, Waterkloof Glen
Ext 11, Pretoria, Gauteng Province.

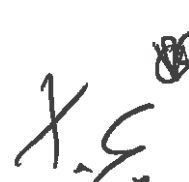
3. In the limited instances where I make submissions of a legal nature, I do so on the advice of the first Applicant's legal representative, which advice I have accepted to be correct.

THE APPLICANT

4. The Applicant is the **SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION** ("SALGA") a national voluntary association representing the interests of approximately 257 municipalities across the Republic of South Africa, and has its registered address at Garsfontein Rd, Waterkloof Glen, Pretoria, Gauteng Province.

THE RESPONDENTS

5. The First Respondent is **ESKOM HOLDINGS SOC LIMITED** ("ESKOM") a state-owned public company incorporated in accordance with the company laws of the Republic of South Africa and is in the business of electricity generation, transmission, trading, and distribution with its registered place of business at Megawatt Park, Maxwell Drive, Sandton, Johannesburg, Gauteng Province.
6. The Second Respondent is the **MINISTER OF MINERAL RESOURCES AND ENERGY**, cited in his or her official capacity as the national competent authority responsible for mineral resources and energy affairs, and as the executive authority responsible for administering the Electricity Regulation Act 4 of 2006, with



registered address 71 Trevenna Campus, Meintjies and Francis Baard Streets, Block 2C Floor 4, Sunnyside Pretoria, Gauteng Province.

7. The Third Respondent is the **MINISTER OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**, cited in his or her official capacity as the Minister of the Department of Co-Operative Governance and Traditional Affairs, a department responsible for the relationship between the national as well as the provincial government and the local government, with a registered address at 87 Hamilton St, Arcadia, Pretoria, Gauteng Province.
8. The Fourth Respondent is the **MINISTER OF PUBLIC ENTERPRISES**, cited in his or her official capacity as the Minister of the Department of Public Enterprises, a department having oversight of State-Owned Entities such as ESKOM, with a registered address at 80 Hamilton St, Arcadia, Pretoria, Gauteng Province.
9. The Fifth Respondent is the **NATIONAL ENERGY REGULATOR OF SOUTH AFRICA (NERSA)** a regulatory authority established as a juristic person in terms of Section 3 of the National Energy Regulator Act 40 of 2004, with a mandate to regulate the electricity, piped-gas and petroleum pipelines industries in terms of the Electricity Regulation Act 4 of 2006, Gas Act 48 of 2001 and Petroleum Pipelines Act 60 of 2003. NERSA's registered place of business is at 526 Madiba St, Arcadia, Pretoria, Gauteng Province.

10. The Sixth Respondent is the **SASOL CHEMICAL INDUSTRIES (PTY) LTD** an energy and chemical company incorporated in accordance with the company laws of the Republic of South Africa and a holder of an electricity distribution licence having its registered place of business at 50 Katherine Street, Sandton, Johannesburg, Gauteng Province.
11. The Seventh Respondent is **WEST RAND POWER DISTRIBUTORS CC** a Close Corporation incorporated in accordance with the company laws of the Republic of South Africa and a holder of an electricity distribution licence having its registered place of business at 1st Floor Minerva Building, 65 Ockerse Street, Kurgersdorp, Gauteng Province.
12. The Eighth Respondent is **VLEESBAAI DIENSTE (PTY) LTD** a company incorporated in accordance with the company laws of the Republic of South Africa and a holder of an electricity distribution licence, having its registered place of business at 5 Jakob van Rensburg Street, Vleesbaai, Mossel Bay, Western Cape Province.
13. The Ninth Respondent is the **SOUTH AFRICAN NATIONAL PARKS** a public entity established in terms of the National Parks Act, No. 57 of 1976 and a holder of an electricity distribution licence having its address at 643 Leyds Street, Muckleneuk, Pretoria, Gauteng Province.


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14. The Tenth Respondent is the **MPUMALANGA ECONOMIC GROWTH AGENCY** a public entity established in terms of the Mpumalanga Economic Growth Agency Act 1 of 2010 and a holder of an electricity distribution licence having its address ABSA Square Building, 20 Paul Kruger Street, Mbombela, Mpumalanga Province.
15. The Eleventh Respondent is the **DAMPLAAS KRAGBRON (PTY) LTD** a company incorporated in accordance with the company laws of the Republic of South Africa and a holder of an electricity distribution licence having its registered place of 31 Van Riebeeck Street, Petrus Steyn, Free State Province.
16. The Twelfth Respondent is the **AECI** is a company incorporated in accordance with the company laws of the Republic of South Africa and a holder of an electricity distribution licence, having its principal place of business at AECI Place, 24 The Woodlands, Woodlands Drive, Woodmead, Sandton, Johannesburg, Gauteng Province.
17. The Thirteenth Respondent is the **ITHALA SOC LIMITED** a state-owned company incorporated in accordance with the company laws of the Republic of South Africa and a holder of various electricity distribution licences, having its head office at Ithala Trade Centre 29, Canal Quay Road, Point Waterfront, Durban, Kwa Zulu Natal Province.
18. No relief is sought against the Respondents directly. The respondents are merely cited as parties who may have an interest in the relief sought.

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THE GIST OF THIS APPLICATION

19.1 The purpose of this application is to seek an order declaring that:

19.1.1 Municipalities have exclusive executive authority to reticulate electricity within their jurisdictions;

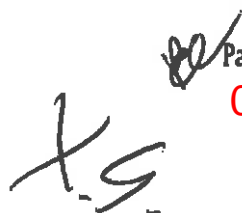
19.1.2 The distribution and supply of electricity by ESKOM in municipal jurisdictions amounts to reticulation of electricity and the provision of a municipal service which requires a Service Delivery Agreement to be entered into between ESKOM and the respective municipalities, in terms of section 76 of the Local Government: Municipal Systems Act 32 of 2000; and

19.1.3 On account of their executive authority to reticulate electricity, and their right to govern the affairs of their communities, municipalities have the power to request ESKOM to enter into Service Delivery Agreements with the municipalities in order for the former to reticulate electricity within the latter's jurisdictions.

19. In what follows I shall set out pertinent facts under the heading background that will contextualize the relief sought in this application.

BACKGROUND

The Distribution of Electricity In the Republic

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20. In terms of Section 156(1)(a) of the Constitution, municipalities are given executive authority over all local government matters which are listed in Part B of Schedule 4 and Part B of Schedule 5 of the Constitution. Reticulation of electricity falls under Part B of Schedule 4 and is thus a matter in which municipalities have executive authority over. Notably, the Constitution does not define the phrase reticulation particularly in respect of electricity.
21. However, the phrase is understood in the Electricity Supply Industry to mean at the very least, the distribution of electricity to residents at large within a municipality's jurisdiction. The Electricity Regulation Act 4 of 2006 (*"the ERA"*) supports this construction. The ERA defines a municipality as: *'a category of municipality that has executive authority over and the right to reticulate electricity within its area of jurisdiction in terms of the Municipal Structures Act'*. The ERA further defines reticulation as: *'trading or distribution of electricity and includes services associated therewith'*
22. I pause to mention that the ERA is the successor of the Electricity Act 41 of 1987. Its purpose is to establish a national regulatory framework for the electricity supply industry; to make the National Energy Regulator the custodian and enforcer of the National Electricity Regulatory Framework; to provide for licences and registration and the manner in which generation, transmission, distribution, trading and the import and export of electricity are regulated; and to provide for matters connected therewith.

X.S.

23. In the pre-democratic era where the Electricity Act was still applicable, the concept of wall-to-wall municipalities was non-existent. In rural areas, townships and the so-called Bantustans, municipalities did not exist. Where municipalities did exist, they bought electricity from ESKOM in bulk and resold/distributed same to residents within those municipalities. These municipalities funded the network needed to distribute electricity themselves. In some parts of the country where municipalities did not exist, ESKOM supplied electricity directly to the residents in those parts.
24. The 1996 Constitution introduced the concept of a wall-to-wall local government system which provided that municipalities be established for the whole of the territory of the Republic. This constitutional imperative was given effect to by the Local Government: Municipal Structures Act 117 of 1998 ("*Structures Act*") through which many municipalities were created "*for the whole territory of the Republic*". There are approximately 257 municipalities in South Africa, comprising of 8 metropolitans, 44 district and 205 local municipalities
25. The wall-to-wall local government system meant that there could no longer be a distinction between municipal areas and non-municipal areas in the Republic. As a consequence, former non-municipal areas that ESKOM had been distributing electricity to, fell within one of the established municipalities' boundaries.
26. From an electricity distribution perspective, where ESKOM had previously supplied electricity to non-municipal areas, it now distributes electricity within

X-G

one of the established municipalities' jurisdiction because of the wall-to-wall system. In some cases, this has resulted in a situation where both ESKOM and some municipalities are distributing electricity together, in those municipalities' jurisdictions. This occurred when for instance the boundary of a municipality that had existed long before the wall-to-wall system, was extended to encompass a non-municipal area where ESKOM was distributing electricity.

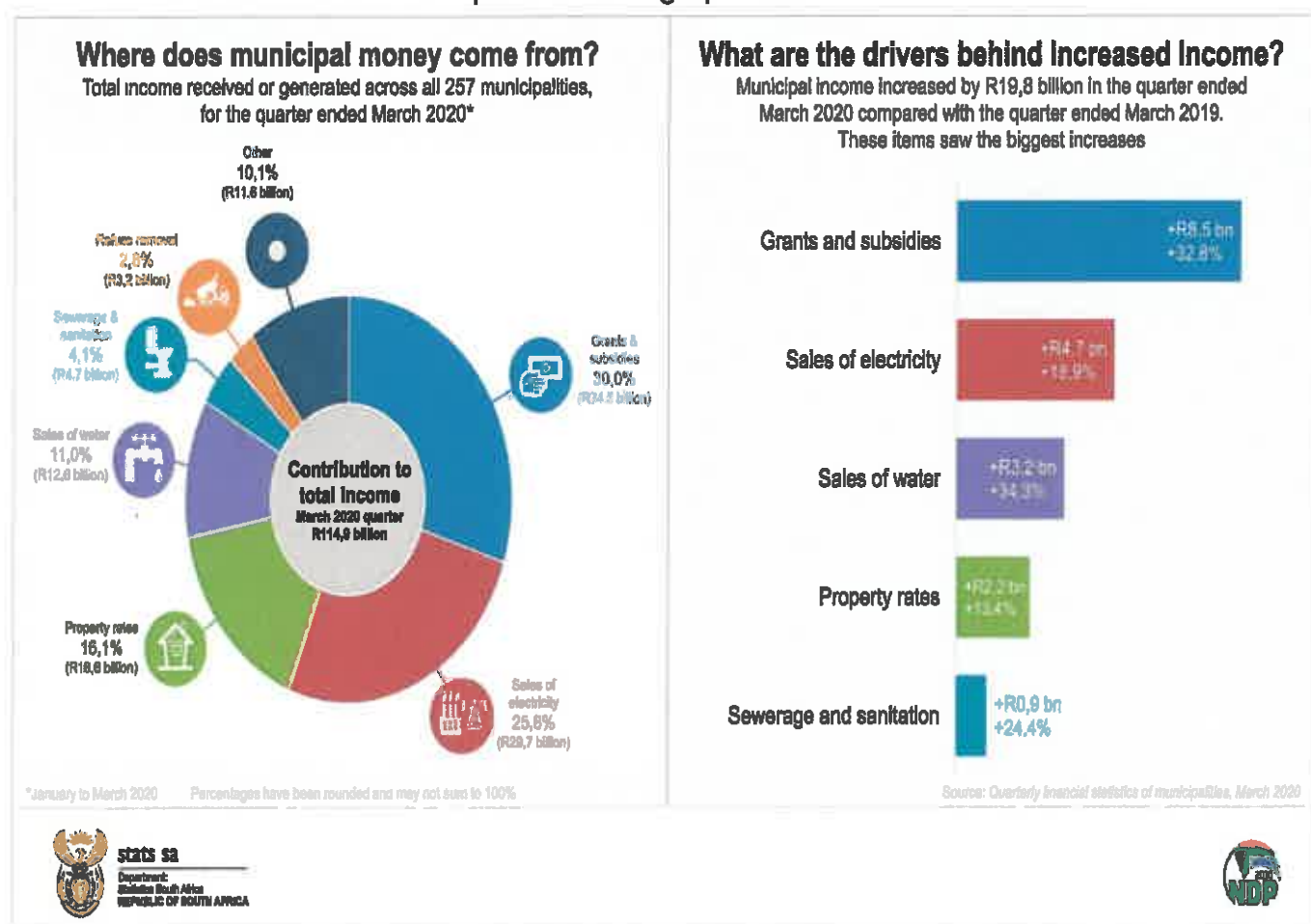
27. As a consequence, the current dispensation is such that, there are areas where ESKOM and Municipalities simultaneously distribute electricity. As such, a municipality that is served by both ESKOM and the municipality itself will have two (2) types of electricity customers: that of ESKOM and that of its own. There are also areas where ESKOM is the sole distributor of electricity. In some of those jurisdictions, ESKOM is using those municipalities' infrastructure to distribute electricity, without paying for that infrastructure.
28. ESKOM's distribution licence is testament to the fact that ESKOM is distributing electricity within the jurisdiction of various municipalities. A copy of the licence is annexed as hereto "FA1". The licence was granted to ESKOM by NERSA in terms of the ERA.
29. It was incumbent on ESKOM to acquire the licence because section 8 of the ERA provides that:

"(l) No person may, without a licence issued by the Regulator in accordance with this Act-
(a) operate any generation, transmission or distribution facility"

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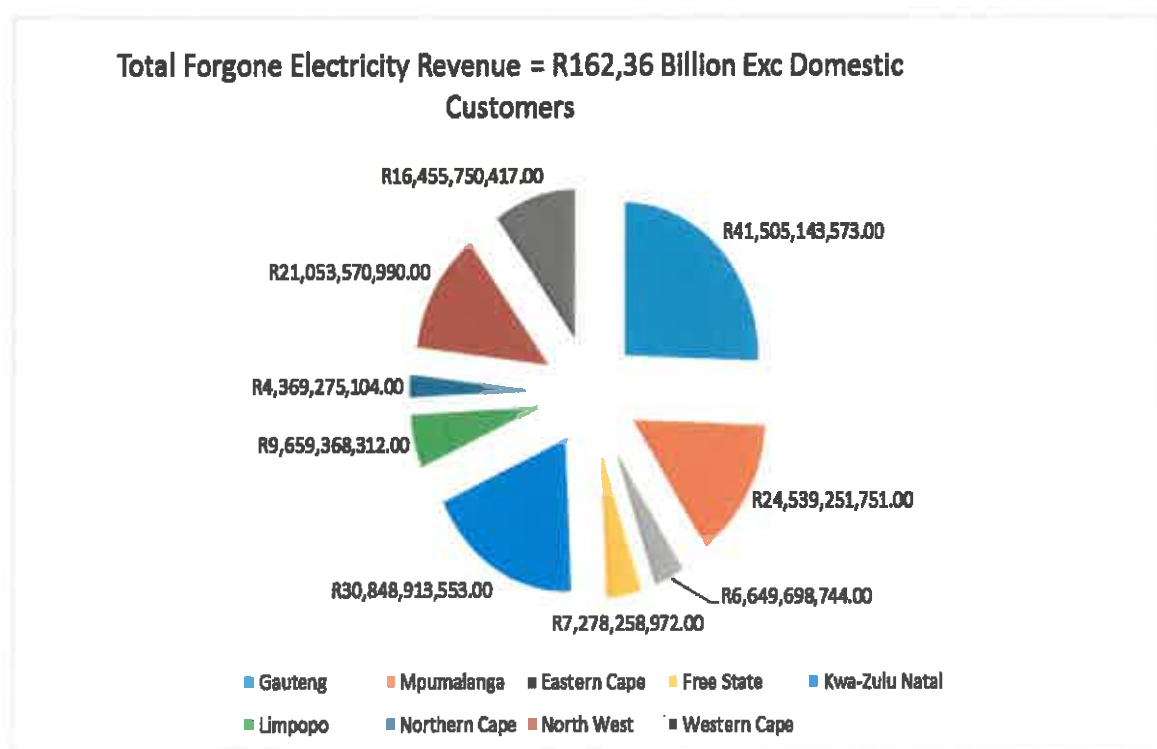
30. Unfortunately for municipalities, there is a fundamental problem with the current dispensation. To appreciate the problem, consideration needs to be given to how municipalities generate their revenue to achieve their primary objective (i.e. service delivery). The first and largest source of income for municipalities is self-generated revenue. The second source is money received from the National Government through grants and subsidies.

31. The first source of income includes income generated from property rates, fines, sale of water, electricity; charges for sewerage, sanitation and refuse removal. From all this, electricity generates the most income. The revenue generated from electricity is used to cross-subsidise other municipal services. I refer this Honourable Court to the pie chart and graph below.



X.S.

32. The distribution of electricity by ESKOM within municipalities' jurisdiction leads to a loss of revenue or opportunity to generate revenue from the distribution of electricity for municipalities. When ESKOM distributes electricity within a municipality's boundary it does not pass a single cent back to that municipality. ESKOM keeps all the income. On the other hand, when a municipality distributes electricity, it buys same in bulk from ESKOM, adds a mark-up (subject to NERSA's tariffs) and sells the electricity to residents. The total revenue municipalities had forgone in 2019 for example, due to ESKOM's supply within the municipalities' jurisdiction is R 162,36 Billion. The Graph below gives a neat breakdown.



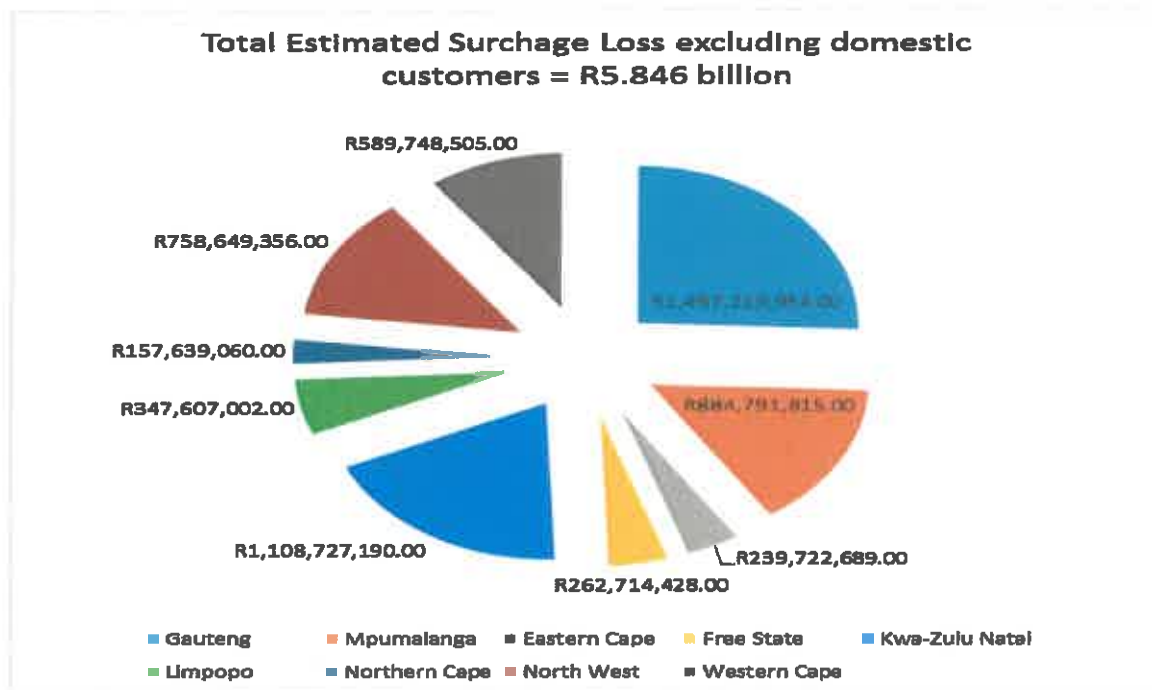
Source: Report by PEERC and University of Johannesburg 'Assessing the Financial and Fiscal repercussions of Eskom's Role in the Electricity Distribution Industry on Local Government' (2019)

Municipalities are able to add surcharges for the provision of services such as electricity. This is permitted by Section 75A (1) of the Systems Act which gives municipalities general powers to levy and recover fees, charges, and tariffs in respect of any function or service of a municipality. As a matter of fact, a municipality's power to apply surcharges emanates from section 129 of the constitution. Subsection 129(1) of the section reads:

"Subject to subsections (2), (3) and (4), a municipality may impose—

- (a) rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
- (b) if authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government into which that municipality falls, but no municipality may impose income tax, value-added tax, general sales tax or customs duty.

33. In 2019 Municipalities lost an opportunity to generate almost R 6 billion in surcharges because of ESKOM's direct supply. The table below provides a provincial breakdown of the figure.



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Source: Report by PEERC and University of Johannesburg 'Assessing the Financial and Fiscal repercussions of Eskom's Role in the Electricity Distribution Industry on Local Government' (2019)

34. ESKOM's distribution of electricity within municipalities' jurisdictions also leads to customer discrimination because ESKOM's customers often pay less for electricity than their counterparts who receive electricity from municipalities. Some of ESKOM's customers purchase electricity on the same terms as municipalities. What this means on a business level is that a business in an ESKOM supplied area will pay less for electricity than one that is in an area supplied by a municipality. Effectively the former business will operate at an unfair advantage over the one that is supplied by the municipality. To allow this state of affairs to occur flies in the face of municipalities' constitutional duty to promote social and economic development, under section 152(1)(c) of the Constitution.
35. Another problem presented by the current dispensation is that municipalities cannot effectively implement credit control measures (cutting off electricity where other services have not been paid) on residents who received electricity directly from ESKOM. The situation between Sandton and Alexandra Township typifies the problem.
36. Both Sandton and Alexandra residents are governed by the same municipality (i.e. the City of Johannesburg). Yet Sandton's residents obtain electricity directly from ESKOM while Alexandra's residents obtain it from the City. The upshot is that Sandton's residents do not pay surcharges and therefore the provision of

other municipal services is essentially subsidized by Alexandra's residents who pay surcharges on electricity purchased from the City.

37. When Sandton's residents fail to pay for water or refuse removal services or property rates taxes, their electricity cannot be cut off to encourage them to pay for those services. On the other hand, the electricity of residents in Alexandra can be cut off if they fail to pay for the other municipal services. What this means, is that credit control is much harder to implement in Sandton than it is in Alexandra, impacting negatively on the ability of the municipality to collect revenue.
38. It thus comes as no surprise that municipal collection rates for service charges, rates and taxes are higher in areas where electricity is distributed by the municipality compared to where it is not. The graph below bears reference.

ESKOM AREA	TOTAL PLOTS	% PAYMENT	MUNIC AREA	TOTAL PLOTS	% PAYMENT
GROTTOBAAI	245	>100%	PPC RIEBEEK WES	118	99.1%
JAKKALSFONTEIN	161	97.2%	MALMESBURY	3968	97.5%
RIEBEEK WES	1106	>100%	YZERFONTEIN	2324	99.5%
RIEBEEK KASTEEL	1433	90.2%	MOORREESBURG	3625	90.9%
KORINGBERG	433	90.6%	WESBANK	3553	87.3%
ABBOTSDALE	1125	64.9%	DARLING	2968	84.8%
KALBASKRAAL	602	43.9%	PHOLA PARK	248	63.5%
CHATSWORTH	1477	42.6%	ILINGE LETHU	1195	63.3%
RIVERLANDS	388	12.7%	TOTAAL:	17999	92.9%
TOTAAL:	6970	73.2%	Comparable average		74.7%
	Comparable average	41.0%			

Source: South African Local Government Association (SALGA)

39. Municipalities are required in terms of the constitution to provide streetlighting for their communities to ensure safety. The provision of streetlighting goes hand-in-hand with the reticulation of electricity. In areas where municipalities reticulate electricity, it is much easier for them to fulfil this constitutional imperative, but not so much in areas where ESKOM reticulates electricity. In those areas, ESKOM simply refuses to take on the responsibility of providing streetlighting because according to ESKOM, no legislation impels it to do so and it is not part of its licence.
40. Where public lighting is made available in ESKOM's areas of supply by municipalities, it is subsidised by those consumers who are supplied with electricity by the municipalities. This is because municipalities do not collect revenue from ESKOM customers to install and service public lighting in ESKOM's areas of supply. What is unfortunate, is that even when municipalities install low energy consumption lights (often referred to as LEDs) ESKOM will charge the municipalities a disproportionate flat rate.
41. In light of what is stated above it is clear that the current dispensation where ESKOM is distributing electricity in municipal territories is insidious to municipalities' constitutional mandate to ensure the provision of services to communities in a sustainable manner (section 152(1)(b) of the constitution). The root cause is clearly South Africa's unfortunate history of discrimination.
42. The impact of the current dispensation can therefore be summed as being an affront to:

- 42.1 the right of municipalities to administer the trading and distribution of electricity (electricity reticulation) within ESKOM areas of supply as well as the municipality's right to govern, on its initiative, local government affairs of its community;
- 42.2 municipalities provision of services to communities in a sustainable manner;
- 42.3 municipalities duty to promote social and economic development,
- 42.4 Municipal credit control measures in ESKOM's areas of supply,
- 42.5 the implicit constitutional power of the municipalities to charge fees for an electricity service;
- 42.6 municipalities' constitutionally entrenched fiscal power to impose surcharges on fees for electricity reticulation services rendered on behalf of the municipality; and
- 42.7 Municipalities' constitutional duty to provide street lighting

Engagement with ESKOM

- 43. The Applicant's solution to the problem(s) arising out of ESKOM's distribution of electricity within municipalities' jurisdiction, has always been that ESKOM should enter into service delivery agreements ("*the SDAs*") with municipalities. Such agreements would be legally sound because the Systems Act provides under Section 76(b)(iii) that a municipality may provide a municipal service in its area or a part of its area by entering into a service delivery agreement with an organ of state.

44. In terms of the SDAs, ESKOM would assume the position of a service provider delivering a service (electricity reticulation) to consumers on behalf of municipalities. Like in the case where municipalities purchase electricity in bulk from ESKOM and reticulate it (distribute and sell) to residents, the electricity will in terms of the SDAs be supplied by ESKOM in bulk, but ESKOM would also reticulate the electricity on behalf of the municipalities to residents. In this relationship, ESKOM would at the very least be remunerated for the bulk supply of the electricity, like it would where it supplies electricity in bulk to municipalities. Because ESKOM would be a service provider for the municipalities under the SDAs, the municipalities would then be able to apply surcharges when electricity is being reticulated, and also exercise credit control by for example switching off electricity for residents who do not pay for other services. Consequently, the disparity highlighted above would disappear and municipal debt collection would improve.

45. Evidently, the SDAs create a win-win situation for the municipalities and ESKOM. The SDAs also fosters the spirit of co-operative governance which is imposed under section 41 of the constitution which provides that:

"41. (1) All spheres of government and all organs of state within each sphere must—

- (a) preserve the peace, national unity and the indivisibility of the Republic;
- (b) secure the well-being of the people of the Republic;
- (c) **provide effective, transparent, accountable and coherent government for the Republic as a whole;**
- (d) be loyal to the Constitution, the Republic and its people;
- (e) respect the constitutional status, institutions, powers and functions of government in the other spheres;
- (f) not assume any power or function except those conferred on them in terms of the Constitution;



(g) **exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and**

(h) **co-operate with one another in mutual trust and good faith by—**

(i) **fostering friendly relations;**

(ii) **assisting and supporting one another;**

(iii) **informing one another of, and consulting one another on, matters of common interest;**

(iv) **co-ordinating their actions and legislation with one another;**

(v) **adhering to agreed procedures; and**

(vi) **avoiding legal proceedings against one another"**

46. The Applicant has engaged ESKOM as far back as 2013 on the issue of the SDAs. In that year the Applicant drafted a generic SDA and engaged ESKOM which was by then was led by Brian Dames. ESKOM agreed in principle on the matters of the SDAs at the time. Pursuant to the engagements, in 2014, a Memorandum of Understanding ("**the *MOU***") was signed between SALGA and ESKOM to deliberate and reach mutual agreements on the content of SDAs as well as addressing other industry operational issues that arose due to the current dispensation. Subsequently, workgroups were formed between ESKOM and SALGA to address the industry challenges with the end goal being the parties entering into the SDAs. Regrettably, all these engagements were futile because of disagreements between SALGA and ESKOM officials.

47. The source of disagreements stemmed (and still does) primarily from the interpretation of the phrase "Executive Authority" under Section 156(1)(a) of the Constitution, which (as already stated) deals with the powers (including electricity reticulation) of municipalities.

48. According to ESKOM, "Executive Authority" does not grant exclusive authority to municipalities when it comes to the reticulation of electricity. On the other hand, the Applicant has been adamant that municipalities have executive and exclusive authority in the reticulation of electricity within municipalities' jurisdictions.
49. In 2015, the Applicant continued to engage ESKOM and NERSA together with other stakeholders (such as National Treasury, COGTA, Department of Energy) through various meetings and workshops in an attempt to resolve the impasse. However, these engagements bore no fruit.
50. In the same year, the Applicant made a presentation on the matter during the National Council of Provinces (NCOP) Local Government Week(an annual event to focus on topical Local Government matters hosted by the NCOP) in parliament where the NCOP resolved that NERSA and ESKOM should take action to implement the requirements of the law (Constitution, Electricity Regulation Act and Municipal Systems Act) on the requirement for SDAs between ESKOM and municipalities. The resolutions of the NCOP were not implemented since same was not recognized by ESKOM and NERSA as being the correct interpretation of the law.
51. In a meeting held in October 2015, the Deputy Ministers of Energy and COGTA, resolved that SDAs must be signed between ESKOM and Municipalities.
52. In February 2016, the Minister of COGTA, the Applicant's Chairperson and the NERSA's leadership discussed and agreed that SDAs must be entered into

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between ESKOM and municipalities. As a result of this decision, NERSA issued a consultation paper in July 2016 seeking comments and legal views from stakeholders and the public on the constitutional powers of the municipalities in terms of electricity reticulation. The Applicant sought legal views and opinions from its members and made detailed submissions to NERSA. NERSA have to date failed to conclude the consultation process and the Applicant has not received a response to its submission. I should mention that ESKOM did not agree with the decision of the February 2016 meeting.

53. On 10 August 2016, the Applicant chaired a Metro Energy Forum to address the blockages around SDAs between ESKOM and Municipalities. The Metro Forum mandated the Applicant to pursue a declaratory order on the Constitutional powers of municipalities for electricity reticulation, or to declare an Inter-Governmental Resolution ("IGR") dispute with ESKOM. Failing resolution, it was agreed that the matter be taken to court. I should mention as an aside that the Metro Energy Forum is a structure established by the applicant (SALGA) to focus on Energy and Electricity and comprises of representatives from the 8 metropolitan municipalities.

54. The Applicant's CEO took this matter to the CEO of ESKOM on 23 August 2016 where the relationship of ESKOM and municipalities was discussed including challenges related to the municipal debt to ESKOM (15-day payment period, interest and NMD penalties). It was agreed that the relationship between ESKOM and the Applicant/ municipalities needs to be formalised and regulated, however ESKOM's CEO did not agree to the signing of SDAs but rather proposed that

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issues between ESKOM and municipalities be resolved on a case-by-case basis. In this regard it was agreed that a task team must meet to propose solutions to the specific issues and challenges, before any formal agreements can be reached.

55. On 06 December 2016, the Applicant and its members met with ESKOM to implement the resolutions of both parties' CEOs. The meeting failed to resolve the issues, nevertheless it was jointly agreed that whilst it is preferable to resolve the matter through IGR process, clarity through a legal process may resolve the impasse.
56. Given the continued impasse with ESKOM, the 2016 SALGA National Conference resolved that if all IGR processes fail to find a solution, a legal / Constitutional solution must be pursued. For the sake of completeness, I should mention that the SALGA National Conference is constitutional structure of the applicant (SALGA) entailing a national gathering (General Meeting) of all municipalities and the highest decision-making structure of the applicant (SALGA).
57. In an attempt to resolve the impasse between ESKOM and Municipalities over the issue of electricity reticulation, an Inter-Ministerial Task Team (IMTT) was established on 17 March 2017 by Cabinet following the Applicant's presentation to the President's Coordinating Council (A national intergovernmental structure established in terms of Chapter 2 of the Intergovernmental Relations Act, 2005 (Act No 13 of 2005) with the President of the Republic as the Chairperson) on the

impasse between ESKOM and SALGA, to deal with Constitutional, Systemic and Structural Challenges in electricity reticulation. The creation of the IMTT was premised on the principles enshrined in the Intergovernmental Relations Framework Act; 2005 (Act No 13 of 2005).

58. The IMTT is composed of the following members:

58.1 The Minister for Cooperative Governance and Traditional Affairs
(as Chairperson);

58.2 The Minister of Finance;

58.3 The Minister of Energy;

58.4 The Minister of Public Enterprises;

58.5 The President of SALGA; and

58.6 The Chairperson of the ESKOM Board

59. Since the establishment of the IMTT in 2017, various meetings have been held to try and resolve the issue between ESKOM and the Applicant in respect of electricity reticulation. Unfortunately, to this day the one thing (parties entering into an SDA) which would solve the problems highlighted above and settle the disquiet between the parties on electricity reticulation, has not been achieved. This is because ESKOM's has blown hot and cold on the issue of SDAs with the municipalities. Each time ESKOM blows cold and demonstrates an unwillingness to enter into the SDAs it relies on its view that Executive Authority over reticulation does not mean exclusive authority. I hasten to state that ESKOM's conduct in this regard has been contra to the constitutional imperative of co-operative governance.

60. It is worthwhile to mention that during times when ESKOM has shown interest and sincerity in entering into the SDAs, ESKOM has debated the content and impact of the SDAs with the Applicant and other members of the IMTT. Most of the regulatory and procedural hurdles present by the SDAs have been discussed and potential solutions have been tabled by both parties during these debates.
61. It is my respectful submission that clarity on the ambit of municipalities Executive Authority to reticulate electricity will go a long way in aiding in the finalisation of the SDAs.

WHY THE RELIEF SOUGHT SHOULD BE GRANTED

62. I respectfully submit that the Applicant is worthy of the relief sought for the reasons below.
63. As already stated above, in terms of Section 156(1)(a) of the Constitution, municipalities are given executive authority over all local government matters which are listed in Part B of Schedule 4 and Part B of Schedule 5 of the Constitution. Reticulation of electricity falls under Part B of Schedule 4 and is therefore, matter which municipalities have executive authority over.
64. Reticulation of electricity as contemplated in Part B of Schedule 4 is thus an original power accorded and to be exercised exclusively by municipalities. For

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purposes of Section 151(3) of the constitution, reticulation is therefore a local government affair. Section 151(3) provides that:

"a municipality has right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the Constitution.

Therefore, municipalities have the power to stipulate how electricity is to be reticulated within their jurisdictions.

65. Although the phrase reticulation of electricity has no definition under the constitution, on a proper construction of the phrase, I submit that it means at the very least the distribution and supply of electricity to residents at large within municipalities' jurisdiction.
66. The provision/distribution of electricity (reticulation) is a basic municipal service that municipalities must (as a matter of public duty) provide. In terms of the Systems Act, a municipal service can only be provided in terms of an internal mechanism (by a municipality) or an external mechanism (using external service providers including the state). When a municipal service is being provided through an external mechanism such as the state, a Service Delivery Agreement is required in terms of section 76(b) of the Systems Act.
67. The ERA does not prohibit SDAs between municipalities and external service providers when it comes to electricity reticulation. To the contrary, the ERA requires in Section 28, that a municipality must comply with Chapter 8 of the Municipal Systems Act before entering into a service delivery agreement with a service provider. The section also requires that an SDA entered into by a

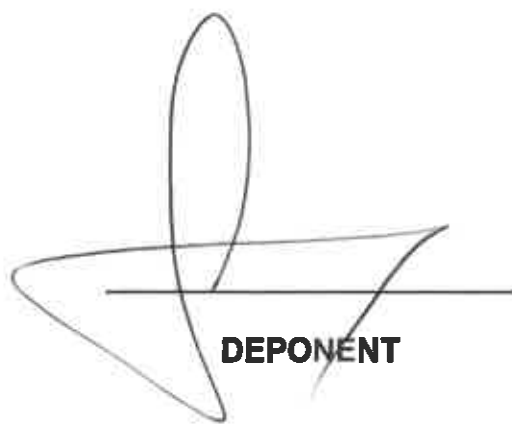
municipality with an external service provider must comply with the Municipal Systems Act, the Municipal Finance Management Act and the ERA itself.

68. It is common cause that ESKOM is distributing electricity within municipal boundaries. ESKOM is therefore engaged in the reticulation of electricity and thus the provision of a municipal service. However, it does this without an SDA between it and the municipalities. Without an SDA, ESKOM's reticulation of electricity is performed by ESKOM against section 41(1)(h) of the Constitution i.e., the exercise of powers and perform functions in a manner that encroaches on the geographical, functional, or institutional integrity of local government.
69. Section 156 (5) of the Constitution provides that a municipality has the right to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions. As I have demonstrated above, the reticulation of electricity is integral to municipalities as it provides the municipalities with majority of their revenue which is used to cross-subsidise other services. Electricity reticulation is thus a matter which is necessary for, or incidental to the effective performance of municipalities' functions (service delivery). Therefore, to request ESKOM to enter into an SDA would be in keeping with section 156(5) of the Constitution.

CONCLUSION

70. In view of what is stated above I submit that a proper case has been made out for the declaratory relief sought by the Applicant.

WHEREFORE the Applicant prays for the order set out in the Notice of Motion.



DEPONENT

I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at PRETORIA on this 13th day of SEPTEMBER 2021 and that the provisions of the Regulations contained in Government Notice R1258 of the 21st JULY 1972, (as amended), have been complied with.



COMMISSIONER OF OATHS

Commissioner of Oaths

FULL NAMES:

Name: Botlhale N. Joel

BUSINESS ADDRESS:

Tel: 08 3 752 7610

Email: joel@cleitite.co.za

Date: 13 September 2021

NATIONAL ELECTRICITY REGULATOR

TEMPORARY DISTRIBUTION LICENCE

issued to

ESKOM HOLDINGS (PTY) LTD

Reg. No. 2002/015527/06

NER/D/ESK

1. DEFINITIONS AND INTERPRETATION

In this licence, words and phrases shall have the meaning ascribed to them in the definition section of the Electricity Act, 1987 (Act No. 41 of 1987) (hereinafter referred to as the Act) and the definition section of the Grid Code, as applicable.

2. GRANT OF LICENCE


The National Electricity Regulator, in exercise of the powers conferred by section 6 of the Act, hereby licenses Eskom to distribute and supply electricity to all consumers of electricity within the area designated in schedule 1 below, subject to the conditions set out in this licence and the Act, read together with the Grid Code.

2.1 NON-GRID ELECTRIFICATION

As mandated by the Minister of Minerals and Energy, in accordance with subsection 4, clause 4. of the Electricity Act, No.41 of 1987, the NER licences ESKOM to function as an agent on behalf of the Department of Minerals and Energy in the implementation of Non-Grid Electrification. The following sections of this licence do not apply to non-grid electrification, as ESKOM's non-grid electrification business shall be regulated by the following list of signed contracts between the parties involved.

- *Agency agreement between the Government of the Republic of South Africa in its Department of Minerals and Energy and ESKOM for Non-Grid Electrification;*
- *Memoranda of Understanding signed between ESKOM and the selected Non-Grid Service Providers; and*
- *Customer agreement, performance criteria and performance guarantee of Non-Grid Service Providers.*

These contracts are attached as Schedule 2 to this licence.

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Further, ESKOM shall notify the NER prior to the signing of any contracts with concessionaires to begin work in an area. This is merely for the purposes of coordination and control.

3. TERM OF LICENCE

This licence shall come in force on 1 July 2006 until 30 June 2007 subject the establishment of the proposed Regional Electricity Distributors.

4. DUTIES OF LICENSEE

4.1 The licensee shall supply electricity within the area of supply mentioned in schedule 1 below to every applicant who is in a position to make satisfactory arrangements for payment thereof.

4.2 Where the licensee is undertaking an electrification programme which has been approved in terms of the Integrated National Electrification Programme (INEP), and the programme sets out the approximate dates on which potential consumers will receive their electricity supply, the licensee shall supply electricity to such potential consumers in accordance with the approved electrification plan.

5. CONDITIONS OF LICENCE

The licensee shall be bound by the following conditions to this licence:

5.1. LEGAL CONDITIONS

5.1.1 The licensee shall supply electricity within the area of supply mentioned in schedule 1 below to every applicant who is in a position to make satisfactory arrangements for payment thereof.

5.1.2 The licensee shall comply with the Grid Code insofar as the Code applies to any of its operations, except where exemptions and derogations have from time to time been approved by the NER. To this end the Licensee shall ensure that all connection and use of system contracts with the Licensed Transmitter are compliant with the Grid Code.

5.1.3 The licensee shall not reduce or discontinue the supply of electricity to a consumer unless -

- i) the consumer is insolvent ; or
- ii) the consumer has failed to pay the agreed charges or to comply with the

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conditions of supply and has failed to remedy the default within 14 days after receiving from the licensee a written notice by post calling upon him to do so.

5.1.4 Where the licensee is undertaking an electrification programme which has been approved based on a one year fixed and three year rolling programme in terms of the Integrated National Electrification Programme, the licensee's programme shall set out the approximate dates on which potential consumers will receive their electricity supply, the licensee shall supply electricity to such potential consumers in accordance with the approved electrification plan.

5.1.5 The National Electricity Regulator shall be entitled to settle disputes between the licensee and another supplier, or between the licensee and its consumers or prospective consumers regarding -

- i. the right to supply;
- ii. the quality of such supply and the provision of services in connection therewith;
- iii. the condition on and prices at which electricity is supplied;
- iv. the installation and functioning of meters;
- v. the suitability of the equipment of the licensee;
- vi. delays in or refusal to supply by the licensee;
- vii. any other matter in respect of which the licensee or its consumers requests the National Electricity Regulator to act as mediator.

5.1.6 Any decision of the regulator on a dispute as contemplated in 5.1.5 above is binding on the parties to the dispute.

5.1.7 This licence is not transferable without the approval of the National Electricity Regulator.

5.2 FINANCIAL CONDITIONS

5.2.1 The licensee shall maintain separate electricity distribution business affairs from the licensee's other affairs so that the revenues; cost; assets; liabilities; reserves and provisions for the electricity business are separately identifiable in the books of the licensee from those of any other business.

5.2.2 The licensee shall prepare on a consistent basis from such accounting records in respect of the financial year of the licensee, and each subsequent financial year, accounting statements comprising -

- i. an income statement;
- ii. a balance sheet.

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together with notes thereto, and in appropriate detail the amounts of any revenue, cost, asset, liability, reserve or provision which has been charged from or to any other business together with a description thereof.

5.2.3 The licensee shall annually submit audited copies of such accounting statements to the National Electricity Regulator within 180 days of the end of the licensee's financial year. This shall include an asset register, purchase value and current value.

5.2.4 The National Electricity Regulator shall determine the prices at which the licensee shall supply electricity to its consumers.

5.2.5 The licensee is not permitted to charge any consumers with other tariffs than those specified in the schedule of approved tariffs set out in schedule 2 hereto, as revised from time to time, without the approval of the National Electricity Regulator.

5.2.6 The licensee shall pay the bulk supplier from whom it purchases its electricity.

5.2.7 Ensure that monies allocated for statutory National Electricity Regulator purposes in the licensee's budget are utilised for such purposes.

5.2.8 Ensure that electricity tariffs increases are promulgated through appropriate media.

5.3 TECHNICAL CONDITIONS

5.3.1 The licensee shall supply electricity to its consumers in compliance with quality standards/criteria as the National Electricity Regulator may from time to time prescribe such as:

- i. Maintenance policy and schedules as prescribed by the NRS 082;
- ii. Code of practice for electricity metering NRS 057; and
- iii. Standards of Service (NRS 047) and quality (NRS 048).

5.3.2 Prepare and adhere to plans, which protect customers and ensure the effectiveness of the industry such as:

- i. Maintenance Schedules;
- ii Standards of Service (NRS 047) and Quality (NRS 048);
- iii enquiries and complaints management;
- iv license compliance management;
- v consumer/public and staff safety/education; and
- vi system losses reduction.

5.3.3 The Licensee shall comply with any NER requirements for the incorporation of any energy efficiency and demand management strategies before augmenting or expanding a distribution system.

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- 5.3.4 Ensure that metering, billing and revenue collection are effective, efficient and accurate.

5.4 GENERAL CONDITIONS

- 5.4.1 The National Electricity Regulator shall be entitled to collect such information from the licensee or its consumers as it deems necessary.
- 5.4.2 The licensee shall supply the NER on a quarterly basis with new electrification connections completed during the previous three months, starting in April of each year.
- 5.4.3 The National Electricity Regulator, or any person authorised by it in writing, may enter upon premises of the licensee and inspect any plant, machinery, books, accounts and other documents found there.
- 5.4.4 The National Electricity Regulator may call upon the licensee to furnish to it such periodical or other returns in such form as the National Electricity Regulator may from time to time prescribe, and such particulars in respect of the undertaking as the National Electricity Regulator may from time to time demand.


6. FAILURE OF LICENSEE TO MEET OBLIGATIONS IN TERMS OF THIS LICENSE

- 6.1 If any licensee fails to meet his obligations in terms of this license, the National Electricity Regulator may serve upon him by post a notice in writing to meet those obligations within 30 days or such longer period as the Regulator may determine, and if the licensee fails to comply with the requirements of the notice-
- i. it shall be guilty of an offence and upon conviction be punishable as provided for in the Act;
 - ii. the Regulator may recommend to the Minister to authorise an appropriate undertaker to enter upon and take possession of the undertaking of the licensee;
 - iii. the Regulator may withdraw the licence at any time.

7. MODIFICATION OF LICENCE

The conditions of this licence may be modified by the National Electricity Regulator -

- i. with the agreement of the licensee ; or


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- ii. failing such agreement, after 30 days due notice has been given to the licensee by the National Electricity Regulator and after consideration of any representation or objections.



8. REVOCATION OF LICENCE

- 8.1 The National Electricity Regulator may at any time agree with the licensee that this licence should be revoked, in which case the term of the licence ends on the day agreed.
- 8.2 The National Electricity Regulator may at any time give 30 days notice of revocation to the licensee if the licensee does not comply with any of its duties and obligations, and the Minister determines that it is necessary or desirable to revoke this licence, in which case the term of this licence ends on the expiration of the period of the notice. The term of this licence does not end at the expiration of the period of a notice of revocation given under this paragraph if, before the expiration, the licensee complies with its duties or obligations.

SIGNED: 

Chief Executive Officer

DATE: 24/08/06.



ESKOM'S ELECTRICITY DISTRIBUTION LICENCE SCHEDULES

LICENCE No.: NER/D/ESKOM

SCHEDULE 1

a) Supply Area - Grid

The presently licensed area(s) electrified and supplied by ESKOM as depicted by Geographic Information System (GIS) polygons. Customers being supplied by municipality or any other Licensed Distributor at the date of commencement of this licence are excluded from this licence.

List of Supply Areas

The Licensed Supply Areas are stated below by provinces and per specific municipality including area names, towns, suburbs, villages and townships including township extension where necessary, which are:

1. Northern Cape (Annexure 1);
2. Free State (Annexure 2);
3. Eastern Cape (Annexure 3);
4. North West (Annexure 4);
5. Western Cape (Annexure 5);
6. Mpumalanga (Annexure 6);
7. Limpopo (Annexure 7);
8. Kwa Zulu Natal (Annexure 8); and
9. Gauteng (Annexure 9).

b) Supply Area – Non-Grid

The supply areas with respect to non-grid electrification are strictly those that have been agreed to by Government and are stated below:

The concessions areas are:

1. Eastern Cape/Kwa-Zulu Natal (DC21, DC15, CBDC5, but excluding EC157)
2. Eastern Cape (DC12, EC157)
3. Northern Province (DC34, DC35, CBDC3)
4. Central Kwa-Zulu Natal (DC22, DC23, DC24, DC29)
5. Northern Kwa-Zulu Natal (DC25, DC26, DC27, DC28)

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SCHEDULE 2 Tariffs and Prices

As approved by the National Energy Regulator of S.A.

SCHEDULE 3 Amendments

Item No.	Amendment	Date of Approval
1	First issue to Eskom	August 1995
2	Transfer of electricity distribution licence from BECOR to Eskom	21 November 1996
3	Amendment of Eskom's electricity distribution licence to exclude Portion 2 of the farm Hartebeesfontein No 422 IP in Stilfontein Municipality	22 November 1996
4	Accommodation of re-determination of cross boundary municipalities	July 2001
5	Amendment of Eskom's distribution license to include Dan Sandi View Township	21 August 2003
6	Transfer of electricity distribution licence from Nongoma Local Municipality to Eskom	October 2003
7	Amendment of the licence to include Dududu, Turton and Maguntia from Port Shepstone Municipality	29 April 2004
8	Transfer of Rosherville Properties (Pty) Ltd electricity distribution licence to Eskom	8 December 2005
9	Amendment of the licence to include Tigerkloof, Brussels, De Beers, Dryharts and Pudimoe from Naledi Municipality	7 August 2006
10	Extension of licence validity period until 30 June 2006	26 May 2006
11	Extension of licence validity period until 36 month after the promulgation of the relevant licensing regulations made under the ERA.	June 2007
12	Amendment of Eskom's electricity distribution licence to exclude Carsdale village in uMhlathuze Municipality	31 July 2007
13	Amendment of Eskom electricity distribution licence to exclude Felixton area village in uMhlathuze Municipality	28 March 2008
14	Amendment of the licence to exclude Komati village in Steve Tshwete Municipality	28 March 2008
15	Amendment of the licence to exclude Ingwavuma town in uMkhanyakude District Municipality	24 March 2010
16	Amendment of the licence to include the following areas from AECI Limited (Somerset West) area of supply into Eskom Western region, which are: a) Portion 56, Farm 794 Stellenbosch; b) Portion 119, Farm 794 Stellenbosch; c) Remaining portion, Farm 787 Stellenbosch; d) Erf 15850 of Somerset West;	27 May 2010

	e) Erf 15851 of Somerset West; and f) Erf 15852 of Somerset West;	
17	Amendment of the licence to include Ngwanallela Village in the electricity supply area from Blouberg Local Municipality	24 November 2011
18	Amendment of Schedule 1 to reflect exact areas of electricity supply with corresponding Geographic Information System (GIS) polygons for Northern Cape Province.	5 April 2017

Signed at Pretoria on this ^{8TH} day of ^{MAY} 2017



Chris Forlee
CHIEF EXECUTIVE OFFICER



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Eskom Northern Cape Annexure 1

Local Municipality	Local Municipality Code	Area of Supply	NERSA ID
IKheils Local Municipality	NC084	Groblershoop	NED000751
		Sternhelm	NED000752
		Grootdrink	NED000753
		Boegoeberg	NED000754
		Gariep	NED000755
		Kleinbegin	NED000756
		Topline	NED000757
		Wegdraai	NED000758
Dawid Kruiper Local Municipality	NC083	Ntsikelelo	NED000698
		Straussburg	NED000699
		Andriesvale	NED000727
		Askham	NED000728
		Groot Mier	NED000729
		Kameelduin	NED000732
		Karos	NED000734
		Klein Mier	NED000735
		Lambrechtsdrift	NED000738
		Leerkrans	NED000739
		Loubos	NED000741
		Melkstroom	NED000744
		Phillandersbron	NED000745
		Raaswater	NED000746
		Rietfontein	NED000747
		Welkom	NED000750
		Mataleng	NED000273
		Rooirand	NED000274
Dikgatlong Local Municipality	NC092	Tidimalo	NED000278
		Corn's Village	NED000279
		Hebron Park	NED000280
		Kutlwano	NED000281
		Windsorton	NED000282
		Gong-Gong	NED000283
		Holpan	NED000284
		Koopmansfontein	NED000285
		Pniel	NED000287
		Pniel Estates	NED000288
		Stillwater	NED000289
		Waldeck's Plant	NED000292
		Kwezi	NED000362
		Nompelelo	NED000363
Emthanjeni Local Municipality	NC073	Tornadoville	NED000364

Gamagara Local Municipality	NC453	Diepkloof	NED000397
		Ditloun	NED000398
		Skerpdraai	NED000400
		Dibeng	NED000403
Ga-Segonyana Local Municipality	NC452	Batiharos	NED000408
		Batiharos RDP	NED000409
		Ditshoswaneng	NED000410
		Ga-Lotolo	NED000411
		Gamopedi	NED000412
		Ga-Motsamai	NED000413
		Gantatelang (Dikgweg)	NED000414
		Garuele (Mosekeng Sou	NED000415
		Ga-Sebolao	NED000416
		Ga-Sehubane	NED000417
		Geelboom	NED000418
		Kagung	NED000419
		Magobe	NED000420
		Magobe RDP	NED000421
		Mapoteng	NED000422
		Maruping	NED000423
		Mokalamosesane	NED000424
		Mothibistat	NED000425
		Mothibistat RDP	NED000426
		Ncweng	NED000427
		Plet Bos	NED000428
		Sedibeng	NED000429
		Seoding	NED000430
		Seoding RDP	NED000431
		Seven Miles (Mmamora	NED000432
		Slojah	NED000433
		Thamonyanche	NED000434
		Vergenoeg (Maheane)	NED000435
Hantam Local Municipality	NC065	Rondomskrik	NED000674
		Calvinia West	NED000676
		Loerlesfontein Ext 1	NED000678
		Middelpo	NED000680
		Bally Birts	NED000436
		Battlemount	NED000437
		Bendel	NED000438
		Bojelapotsane	NED000440
		Bosra	NED000441
		Bothetheletsa	NED000442
		Bothithong	NED000443
		Bothithong RDP	NED000444
		Bushy Park	NED000445
		Cahar	NED000446
		Camden	NED000447
		Camden RDP	NED000448

Cardington	NED000440
Cassel	NED000450
Churchill	NED000451
Colston	NED000452
Damros 1	NED000453
Damros 2	NED000454
Damrose 3	NED000455
Danoon	NED000456
Deurham	NED000457
Deurward	NED000458
Dikling	NED000459
Dinyaneng (Dockson 2)	NED000460
Dithakong	NED000461
Ditlharapaneng	NED000462
Ditshilabeleng	NED000463
Ditshipeng	NED000464
Diwatshane	NED000465
Dockson	NED000466
Drieloop	NED000467
Eiffel	NED000468
Ellendale (Smauswane)	NED000469
Esperanza (Churchill)	NED000470
Gadiboe (Tlhokomelang)	NED000484
Gahue (Gamatolong)	NED000485
Gakhoe (Gahuhuwe)	NED000486
Galotlhare	NED000487
Ga-Madubu	NED000471
Ga-Makgatlhe	NED000472
Ga-Masepa	NED000473
Gamasilabele	NED000488
Gamatolong	NED000489
Ga-Mmokwane	NED000474
Ga-Moheete (Dithakong)	NED000475
Gamokatedi	NED000490
Ga-Mokomela (Dithakong)	NED000476
Gamorona	NED000491
Ga-Mothibi	NED000477
Ganap	NED000492
Ganghae	NED000493
Ga-Sehunelo Wyk 5 (Ga)	NED000478
Ga-Sehunelo Wyk 6	NED000479
Ga-Sehunelo Wyk 7	NED000480
Ga-Sehunelo Wyk 8	NED000481
Ga-Sehunelo Wyk 9 (Els)	NED000482
Gasese	NED000494
Ga-Thameng (Wateraar)	NED000483
Gatshekedi	NED000495
Gatswinyane	NED000496

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Joe Morolong Local Municipality

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Glenred	NED000497
Glenred RDP	NED000498
Goodhope	NED000499
Heiso	NED000500
Hertzog	NED000501
Heuningvlei	NED000502
Heuningvlei Pan	NED000503
Kakonye	NED000505
Kampaneng	NED000506
Kanana	NED000507
Kelokeloe	NED000508
Kganung	NED000509
Kganwane	NED000510
Kgomohute	NED000511
Kgomohute 2	NED000512
Khankhudung	NED000513
Kiangkop	NED000514
Kikahela	NED000515
Kilo-Kilo	NED000516
Klein Eiffel	NED000517
Kleinelra	NED000518
Kliphom	NED000519
Kokfontein (Khabetlwan)	NED000520
Kokonye	NED000521
Kome (Bareki)	NED000522
Kortnight	NED000523
Kruisaar	NED000524
Laxey	NED000525
Lebonkeng	NED000526
Letlhakajaneng	NED000527
Logaganeng	NED000529
Logaganeng	NED000528
Logobate	NED000530
Lokaleng	NED000531
Longhurst	NED000532
Loopeng	NED000533
Lotlhakane	NED000534
Madibeng	NED000535
Magagwe	NED000536
Magobing West	NED000537
Magojaneng	NED000538
Mahukubung	NED000539
Malpeng	NED000540
Majanking (Dithakong)	NED000541
Majemantsho	NED000542
Makadibeng (Kokfontein)	NED000543
Maketlele	NED000544
Makgaladi	NED000545

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Makhubung	NED000546
Mamebe	NED000547
Mammehe	NED000548
Manaring	NED000549
Manyeding	NED000550
Maolagane	NED000551
Maphiniki	NED000552
March	NED000553
Masankong	NED000554
Maseohatshe	NED000555
Masilabetsane	NED000556
Mathanthanyaneng	NED000557
Matlhabanelong	NED000558
Matolwaneng	NED000559
McCarthyus	NED000560
Mentu	NED000561
Metsimantsi Wyk 1	NED000562
Metsimantsi Wyk 2	NED000563
Metsimantsi Wyk 3	NED000564
Metsimantsi Wyk 4	NED000565
Metsimantsi Wyk 6	NED000566
Metswetsaneng	NED000567
Mmatoro	NED000568
Mokalawanoga	NED000569
Molatswaneng	NED000570
Mosekeng	NED000571
Moshaweng	NED000572
Motlhoeng	NED000573
Ncwelengwe	NED000574
Niks	NED000575
Nkajaneng	NED000576
Ntswaneng	NED000577
Padstow	NED000578
Penryn	NED000579
Perdmontjie (Molomow)	NED000580
Perth	NED000581
Phomolong	NED000582
Pietersham (Makalanen)	NED000583
Pong-Pong	NED000584
Radiatsogwa	NED000585
Ramatale	NED000586
Rusfontein Wyk 10 (Pho	NED000587
Rusfontein Wyk 11 (Pho	NED000588
Rusfontein Wyk 9 (Pho	NED000589
Ruwell	NED000590
Saamsukkel	NED000591
Salaneng (Dithakong)	NED000592
Segwaneng	NED000593

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		Sesipl	NED000594
		Setswetshaneng	NED000595
		Severn	NED000596
		Shalaneng	NED000597
		Skerna	NED000598
		Slough (Sloujah)	NED000599
		Stilrus	NED000600
		Suurdig	NED000601
		Takeng (Selosesha)	NED000602
		Tlapeng	NED000603
		Tsaelengwe	NED000604
		Tsiloane (Tsilwana)	NED000605
		Tsineng	NED000606
		Tsineng-Kop	NED000607
		Tsoe	NED000608
		Tzaneen	NED000609
		Van Zylsrus	NED000610
		Washington	NED000611
		Wateraar	NED000612
		Wingate	NED000613
		Zero (Thotayamokhu)	NED000614
Kai !Garib Local Municipality	NC082	Augrables	NED000760
		Augrables Ext 1	NED000761
		Augrables Ext 2	NED000762
		Lennertsville	NED000773
		Alheit	NED000775
		Bloemsmond	NED000776
		Cillie	NED000777
		Currie's Camp	NED000778
		Kanoneiland	NED000779
		Loxtonvale	NED000780
		Lutzborg	NED000781
		Marchand	NED000782
		Sending	NED000783
		Soverby	NED000784
		Vredesvallei	NED000785
Kamiesberg Local Municipality	NC064	Kharkams	NED000793
		Lellefontein	NED000797
		Tweerivier	NED000804
Kareeberg Local Municipality	NC074	Bonteheuvel	NED000382
		De Bult	NED000384
		Ou Skema	NED000385
		Van Wyksvlei	NED000386
		Van Wyksvlei West	NED000387
Karoo-Hoogland Local Municipality	NC066	Skietfontein	NED000392
		Rebelskop	NED000627
		Sutherland	NED000628
		Amandelboom	NED000629

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Khâi-Ma Local Municipality	NC067	Melkbosrand	NED000553
		Onseepkans	NED000634
		Sending	NED000635
		Viljoensdraai	NED000636
		Pella	NED000640
		Witbank	NED000641
Magareng Local Municipality	NC093	Ikutseng	NED000293
Nama Khol Local Municipality	NC062	Buffelsrivier	NED000661
		Bulletrap	NED000662
		Goodhouse	NED000665
		Henkries	NED000667
		Komaggas	NED000669
		Rooiwal	NED000670
		Steinkopf	NED000671
		Vloosdrif	NED000672
Phokwane Local Municipality	NC094	Andalusiaville	NED000260
		Kingston	NED000262
		Valspan	NED000263
		Pamplerstad	NED000264
		Patsima	NED000265
		Sakhile	NED000266
		Shanty	NED000267
		Magogong	NED000269
		Mountain View	NED000270
Renosterberg Local Municipality	NC075	Greenpoint	NED000337
		Thembinkosi	NED000339
		Uitsig	NED000340
		Lukhanyisweni	NED000341
		Phillipvale	NED000343
Richtersveld Local Municipality	NC061	Sizamile	NED000811
		Sanddrift	NED000813
		Eksteenfontein	NED000815
		Kuboes	NED000816
		Lekkersing	NED000817
Siyancuma Local Municipality	NC078	Campbell	NED000297
		Voelfontein	NED000298
		Bongani	NED000299
		Matlhomola	NED000305
		Rainbowvalley	NED000306
		Broadwaters	NED000311
		Plooysburg	NED000312
		Marydale	NED000313
Siyathemba Local Municipality	NC077	Rainbow	NED000314
		Rame Road	NED000315
		Riemvasmaak	NED000316
		Zwelitsha	NED000317
		Blinkpunt	NED000318
		Nlekerkshoop	NED000319

		Thabang	NED000320
		Bonteheuwel	NED000321
		Ethembeni	NED000322
		Ethembeni Ext	NED000323
		Ext 15	NED000324
		West End	NED000326
Sol Plaatje Local Municipality	NC091	Ikageng	NED000107
		Mandela Square	NED000108
		Motswedimosa	NED000109
		Rietvale	NED000110
		Ritchie	NED000111
		Modderivier	NED000112
Thembelihle Local Municipality	NC076	7de Laan	NED000328
		Steynville	NED000330
		Thamboville	NED000331
		Deetlefsville	NED000334
Tsantsabane Local Municipality	NC085	Boichoko	NED000682
		Newtown	NED000683
		Postdene	NED000684
		Postdene Ext	NED000685
		Riemvasmaak	NED000687
		Groenwater (Metsimata)	NED000690
		Groenwater Station	NED000691
		Jenhaven	NED000692
		Maditshabe	NED000694
		Maremane	NED000695
		Maseutlwadi	NED000696
		Skeyfontein	NED000697
Ubuntu Local Municipality	NC071	Loxton West	NED000366
		Sabelo	NED000370
		Grens	NED000374
		Misslonvale	NED000377
		Sunrise	NED000379
Umsobomvu Local Municipality	NC072	Kuyasa	NED000180
		Masizakhe	NED000189
		Norvalspont	NED000188
		Eurekaville	NED000186
		Kwazamuxolo	NED000187

Signed at Pretoria on this 8th day of MAY 2017.


Chris Forlee
CHIEF EXECUTIVE OFFICER