



**KRIEK WASSENAAR & VENTER ING**

Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Our ref: PJ Wassenaar/es/QB1012

Your ref:

1 September 2022

**ESKOM HOLDINGS SOC LTD  
MEGAWATT PARK  
MAXWELL DRIVE  
SUNNINGHILL  
SANDTON**

**URGENT**

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Sir / Madam

**SAKELIGA NPC / ESKOM HOLDINGS SOC LTD**

**TERMINATION OF BULK ELECTRICITY SUPPLY – CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

1. We confirm that we act for Sakeliga NPC ["our client"].
2. It has come to our client's attention that Eskom is currently threatening the termination of the supply of bulk electricity services to the City of Tshwane Metropolitan Municipality (the "City"), due to the City ostensibly failing to comply with its obligations in terms of the *Electricity Supply Agreement* (ESA) between the parties.
3. The intended action by Eskom is, in our client's view, unconstitutional and in breach of the Electricity Regulation Act 4 of 2006. Furthermore, our client has it on good authority that Eskom has failed to comply with any of its obligations in terms of the Intergovernmental Relations Framework Act 13 of 2005 (see *Eskom Holdings SOC Ltd v Resilient Properties (Pty) Ltd and others (Sakeliga as Amicus Curiae)* 2021 (3) SA 47 (SCA)).
4. Eskom is not a pure commercial actor in the relationship between it and the municipality. The ESA's concluded with organs of state is not to be viewed in purely commercial terms but in

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Bygestaan deur/assisted by Tertia Johanna Wassenaar (LLB), Kayla Dames (Bcom LLB), Rohann Eloff (Bcom LLB);  
Konsultante / Consultants: Catherina Elizabeth Pienaar (BA, BCur, LLB, LLM, PhD), Sylvia Adriana Venter (LLB)

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terms of the specific lens of public law. Eskom is not entitled to merely terminate the agreement between it and other service delivery actors due to failures on the part of another organ of state or decide on the termination of public services in a way that will detrimentally affect end-users.

5. Furthermore, our client believes that the public has a legitimate expectation that Eskom will invite them to provide submissions regarding any administrative action Eskom intends to take that will directly affect them. In our client's view, a failure to invite public participation from the residents, especially paying end-users residing in the City, will constitute unlawful administrative action.
6. Terminating bulk supply to one of the largest municipalities in the country will have a devastating effect on an already struggling economy. Our client also struggles to see how the termination of bulk supply of electricity to paying end-users residing in one of Eskom's largest supply markets in the country will improve its financial position. Our client is not opposed to mechanisms that seek to recover debts from defaulting customers (whether municipalities or end-users), as long as it does not result in the penalisation of actual paying customers. Termination or reduction in the supply of bulk electricity will severely prejudice paying end-users and *inter alia*:
  - 6.1 limit the ability of people to conduct business within the City;
  - 6.2 prejudice businesses in their ability to remain profitable;
  - 6.3 frustrate residents in their ability to conduct their daily household activities;
  - 6.4 limit the ability of residents to receive, solicit and request services, especially in regards to online commercial activities;
  - 6.5 cause damage to electric equipment and infrastructure;
  - 6.6 risk thousands of employment opportunities in the affected areas;
  - 6.7 risk the safety and securing of all persons, residents and residences;
  - 6.8 especially expose the residents of the City to disruption, prejudice, damage and health and safety risks in the following areas:
    - 6.8.1 healthcare;

- 6.8.2 education;
  - 6.8.3 retirement and critical care;
  - 6.8.4 water and sanitation supply.
7. Our client requests a meeting with the executive management of Eskom in order to discuss and address its concerns. However, should we not receive an adequate response and if Eskom proceeds with the termination of the bulk supply of electricity to the City, our client reserves the right to institute appropriate legal action against Eskom without further notice, which may include urgent applications.
8. Our client is sensitive to Eskom's financial predicament but is compelled to act where Eskom's action penalises paying end-users and disproportionately causes harm to the economy.
9. We await your response.

Yours faithfully,



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Elektronies geteken  
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