

30 July 2018

To: Mr P Hadebe
Acting CEO
Eskom Holdings SOC Limited
c/o: Mr Wawa Xaluva
Head of Legal
Per: E-mail (XaluvaMC@eskom.co.za and wawa.xaluva@eskom.co.za)

Dear Mr Hadebe

NOTICE TO EMFULENI LOCAL MUNICIPALITY (“ELM”): INTERRUPTION OF BULK ELECTRICITY SUPPLY
OUR REF: LG/GEN07/001
YOUR REF: UNKNOWN

1. We act on behalf of the consumers of electricity within the area of jurisdiction of ELM.
2. We refer to Eskom’s undated notice (“the notice”) in terms of which Eskom notifies ELM in terms of the Promotion of Administrative Justice Act (Act 3 of 2000) of its decision to interrupt the electricity supply to ELM with effect from 6 August 2018.
3. The notice acknowledges the fact that Eskom has received numerous representations as to why the bulk supply of electricity to ELM should not be interrupted, which resulted in Eskom approaching the Gauteng Provincial Government, as well as NERSA, to facilitate a situation where the supply of electricity would continue. The notice further states that the interim payment proposal made by Eskom was rejected by the Provincial Government, that the monthly debt increases at approximately R200 million per month, and that ELM makes no or insufficient payments to cover its arrear debt and current consumption.
4. The proposed interruptions will be phased in, but in the second week (13 August 2018) until the breach is remedied, the interruptions will be from 06:00 to 20:00 Monday to Friday and Saturdays and Sundays 06:00 to 20:00, thereafter, and with 15 days’ notice, Eskom may disconnect the electricity entirely and indefinitely.

ORGANISATION UNDOING TAX ABUSE NPC

Reg No.: 2012/064213/08

Directors: WL Duvenage (CEO), Adv. S Fick, LJJ Pauwen, BCC Theron (COO), Dr. Makhosi Khoza

Non-Executive Directors: Ms FI Adam (Chair), PM Majozi, Ms WB Modisapodi, Ms T Pillay Van Graan

ADDRESS: O’KEEFFE & Swartz Building, 318 Oak Avenue, Randburg, Gauteng

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5. It is further stipulated that the affected towns/points of supply would be Vereeniging, Vanderbijlpark, Sebokeng, Boipatong, Tshepiso, Sharpeville and Evaton.
6. OUTA has information that at least one industry has already issued an application for an urgent court order interdicting Eskom from implementing interruptions in the electricity supply to the particular industry, pending the outcome of the second part of the application, which is to review, correct or set aside the decision by Eskom to implement interruptions in the electricity supply, on the basis that it is unconstitutional, unlawful, irrational and unreasonable, *inter alia*, due to the fact that the particular industry has a fully paid up electricity account. OUTA is also aware of the fact (this is in the public domain) that Eskom proposed to the Gauteng Provincial Treasury and NERSA that seven identified industries within the area of jurisdiction of ELM be permitted to pay Eskom directly and that Eskom, for as long as the seven identified industries pay directly to it, will not interrupt the electricity supply to ELM.
7. This proposal appears to be reasonable and practical in the circumstances, and it is unclear why the parties, namely ELM, NERSA and Gauteng Provincial Government cannot, at least in the interim, come to such an arrangement.
8. One inference to be drawn from the Eskom proposal is, that despite the fact that many electricity consumers do not pay their accounts, sufficient funds are received from paying consumers to such an extent that Eskom is willing and able to propose that it will not interrupt the electricity supply even if only seven consumers were to pay directly to Eskom.
9. In this regard, OUTA will engage with ELM and, if necessary, obtain a court order to ring-fence all payments by rate payers and consumers of electricity and water to ELM, to ensure that Eskom is paid in accordance with the agreement between it and ELM, to further ensure that ELM pays Rand Water and to make further funds available for emergency repairs to infrastructure (especially sewer). The distribution of funds

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collected by ELM could, for instance, be monitored and paid under the supervision of Provincial or National Treasury.

10. It is submitted that the disruption of electricity supply, as decided by Eskom, will have a devastating effect on the communities and businesses within the area of jurisdiction of ELM. The effect of disruptions to industries and businesses and other places of employment will force employers to engage in the retrenchment of at least part of their workforce, health and safety will be at risk, as a result of the fact that sewer pumps cannot operate without electricity (taking into consideration the already significant pollution of the Vaal River due to the collapse of the ELM's ability to render basic services), all of which will have a negative impact on the whole area of jurisdiction of ELM and may even lead to the collapse of an area which was, not long ago, known as the economic heartland of South Africa.

11. Our instructions are to demand, as we hereby do, that Eskom gives us an undertaking that it will not disrupt the electricity supply to ELM, failing which OUTA reserves the right to institute urgent proceedings interdicting Eskom from disrupting the electricity supply to ELM pending an application to review, correct and set aside Eskom's decision in this regard.

Kind regards,



Stefanie Fick
Head of Legal Affairs
OUTA – Organisation Undoing Tax Abuse
E-mail: stefanie.fick@outa.co.za

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