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IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Division, Pretoria

CASE NO: **2022-061920**

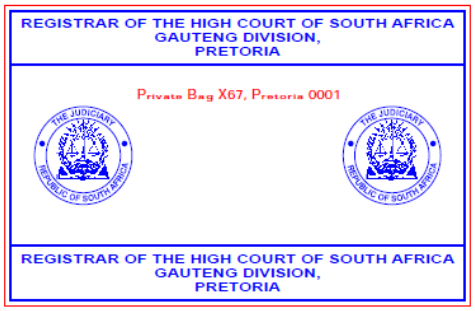
In the matter between:

Sakeliga NPC,Agri North West,TLU SA,Magaliesberg Citrus Company (Pty) Ltd	Plaintiff / Applicant / Appellant
and	
Eskom Holdings SOC Ltd,The National Energy Regulator of South Africa (NERSA),The Minister of Mineral Resources and Energy	Defendant / Respondent

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Other

NOTE: **This document was filed electronically by the Registrar on 16/1/2023 at 1:19:58 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.**



ELECTRONICALLY SIGNED BY:

Registrar of High Court of South Africa , Gauteng Division,Pretoria

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO.: 2022-061920

In the application between:

SAKELIGA NPC	1st Applicant
AGRI NORTH WEST	2nd Applicant
TLU SA	3rd Applicant
MAGALIESBERG CITRUS COMPANY (PTY) LTD	4th Applicant

and

ESKOM HOLDINGS SOC LTD	1st Respondent
THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA (NERSA)	2nd Respondent
THE MINISTER OF MINERAL RESOURCES AND ENERGY	3rd Respondent

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION,
PRETORIA
Private Bag X67, Pretoria 0001
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION,
PRETORIA

APPLICANTS' NOTICE IN TERMS OF RULE 16A

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PLEASE TO TAKE NOTICE that the applicant's intent to make an application under the above-mentioned case number to the above Honourable Court, on a date and time to be arranged with the Registrar, in which the following constitutional issues are raised:

1 Whether the 1st respondent's policy and action of the 1st respondent to apply periodic and/or scheduled and/or ad hoc load reduction to so-called high-loss feeder lines, alternatively to feeder lines where the 1st respondent is experiencing high electricity use losses, further alternatively to the feeder lines stated in paragraphs 41 and 86 of the founding affidavit (the "load reduction policy") be declared to be unfair, unreasonable, irrational, ultra vires, unlawful, unconstitutional and be reviewed and set aside.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
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PRETORIA
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PRETORIA

2 Whether the 1st respondent's decisions to apply load reduction to feeder lines across South Africa, alternatively, the feeder lines referred to in paragraphs 41 and 86 of the founding affidavit, constitutes unjustifiable and unidentifiable discrimination and differentiation between customers or classes of customers regarding access and conditions of service and be declared unconstitutional, unlawful and be reviewed and set aside.

3 Whether load reduction as a credit control and/or debt-collection mechanism aimed at recovering or curtailing usage by non-paying direct customers on feeder lines, be declared to be unconstitutional, unlawful and be reviewed and set aside in as far as it has the consequential effect of also reducing or terminating the supply of electricity to paying direct customers on the same feeder line.

4 Whether a Court should declare that the 1st respondent's load reduction policy and action, in terms thereof, is in contravention of sections 21 (2) and 21 (5) of

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the Electricity Regulation Act 4 of 2006 ("ERA"), and be found to be unlawful and be reviewed and set aside.

5 The applicants submit that the first respondent's load reduction policy:

5.1 constitute an impermissible infringement of the rights of customers and end-users that receives direct supply from the 1st respondent in that it differentiates grounds not authorised by the ERA and/or the 2nd respondent;



5.2 is in breach of the 1st respondent's public duty to supply electricity to paying customers;

5.3 is procedurally unfair;

5.4 is ultra vires;

5.5 is unreasonable;

5.6 is inconsistent with an open and democratic society;

5.7 is taken for ulterior purpose;

5.8 is substantively and procedurally irrational;

5.9 is constitutionally unconscionable;

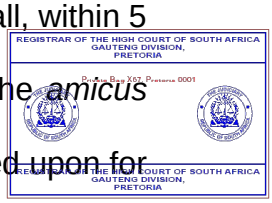
6 Whether in the alternative relief sought by the applicants that, in the alternative to paragraphs 1 - 4 above, an order in terms of section 172 of the Constitution that is just and equitable, and which has a remedial effect alleviating the Constitutional infringements, concerns and/or invalidities underlying this application, should be granted.

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7 Whether a cost order should be granted in favour of the applicant.

TAKE NOTICE FURTHER THAT any interested party may, with the written consent of all the parties to the proceedings, given not later than 20 (twenty) days after this notice has been filed, be admitted therein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE NOTICE FURTHER THAT the written consent referred to above shall, within 5 (five) days of it having been obtained, be lodged with the Registrar and the *amicus curiae* shall, in addition to any other provision, comply with the times agreed upon for the lodging of written argument.



TAKE NOTICE FURTHER THAT the terms and conditions agreed upon may be amended by the Court.

TAKE NOTICE FURTHER THAT if the interested party is unable to obtain the written consent, as contemplated herein, he/she may, within 5 (five) days of the expiry of the 20 (twenty) day period prescribed above, apply to Court to be admitted as an *amicus curiae* in the proceedings. Such application shall:

a) briefly describe the interest of the *amicus curiae* in the proceedings;

b) clearly and succinctly set out the submissions which will be advanced by the *amicus curiae*, the relevance thereof to the proceedings and his/her reasons

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for believing that the submissions will assist the Court and are different from those of the other parties; and

c) be served upon all the parties to the proceedings.

TAKE NOTICE FURTHER THAT any party to the proceeding who wishes to oppose an application to be admitted as an *amicus curiae*, shall file an answering affidavit within 5 (five) days of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.



DATED AT PRETORIA ON 16 JANUARY 2023.

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nj@kriekprok.co.za
REF: **P.J. WASSENAAR/ QB0973**

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