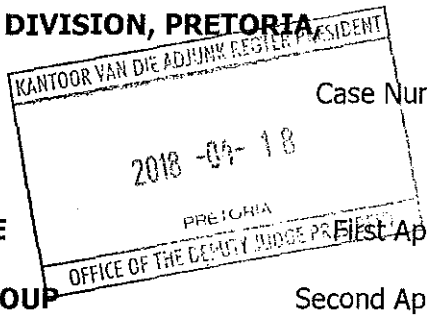
ORIGINAL

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA



Case Number: 83453/17

In the matter between:

WILLEM HELM JOHAN COETZEE	First Applicant
SAVE EMALAHLENI ACTION GROUP	Second Applicant
SAMUEL NAPE obo INTERESTED AND AFFECTED PARTIES IN TERMS OF S38 OF THE CONSTITUTION	Third Applicant

and

ESKOM HOLDINGS SOC LTD	First Respondent
EMALAHLENI LOCAL MUNICIPALITY	Second Respondent
THE PREMIER, MPUMALANGA PROVINCE	Third Respondent
THE EXECUTIVE COUNCIL FOR PROVINCE OF MPUMALANGA	Fourth Respondent
THE MEMBER OF THE EXECUTIVE COUNCIL FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, MPUMALANGA	Fifth Respondent
THE MEMBER OF THE EXECUTIVE COUNCIL FOR TREASURY, ECONOMIC DEVELOPMENT AND TOURISM, MPUMALANGA	Sixth Respondent
THE NATIONAL ENERGY REGULATOR	Seventh Respondent
THE MINISTER OF WATER AND SANITATION	Eighth Respondent
OLIFANTS RIVER FORUM	Ninth Respondent

AND

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

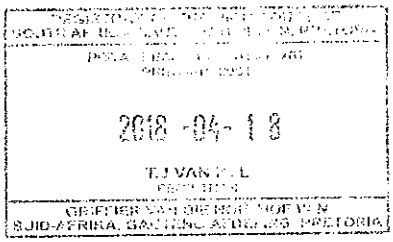
ESKOM HOLDINGS SOC LIMITED	First Respondent
EMALANHLENI MUNICIPALITY	Second Respondent
MEC: CO-OPERATIVE GOVERNANCE & TRADITIONAL AFFAIRS (MPUMALANGA)	Third Respondent
MINISTER OF ENERGY	Fourth Respondent
NATIONAL ENERGY REGULATOR OF SOUTH AFRICA	Fifth Respondent

FILING SHEET – ANSWERING AFFIDAVIT

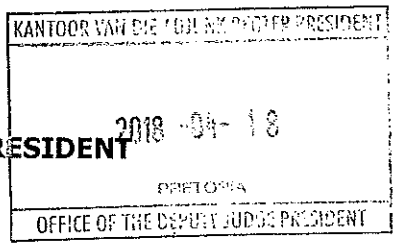
DATED AT PRETORIA ON THIS 16TH DAY OF APRIL 2018

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Attorney for the Premier
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TO THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PRETORIA



AND TO:
THE OFFICE OF THE DEPUTY JUDGE PRESIDENT
7th Floor
Room 7.15
High Court Building
Pretoria

AND TO:
JOHAN COETZEE INC
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10:58

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For Applicants in case No. 83581/2017

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Sonder benadeling van Regte
Without Prejudice

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COUZYN HERTZOG & HORAK

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For applicants in case No. 83581/17

AND TO:
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NGENO AND MTETO INCORPORATED
RECEIVED WITHOUT PREJUDICE
Date: 17/04/18 Signature:
Time: 10:12

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For Eskom.

AND TO:
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Ref: C Brandt/LK/CN0397



SERVICE BY EMAIL

_____

Received a copy hereof on this ____ day of April 2018
For eMalanhleni Municipality.

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA,

Case Number: 83453/17

In the matter between:

WILLEM HELM JOHAN COETZEE	First Applicant
SAVE EMALAHLENI ACTION GROUP	Second Applicant
SAMUEL NAPE obo INTERESTED AND AFFECTED PARTIES IN TERMS OF S38 OF THE CONSTITUTION	Third Applicant

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MINISTER OF ENERGY	Fourth Respondent
NATIONAL ENERGY REGULATOR OF SOUTH AFRICA	Fifth Respondent

AFFIDAVIT ON BEHALF OF THE PREMIER

I, the undersigned,

NEIL DIAMOND

do hereby make oath and state that:

1.

1.1. I am the Municipal Manager of the City of Mbombela Local Municipality, holding offices as such at Civic Centre, 1 Nel Street, Mbombela. I head a Task Team appointed by the Premier of Mpumalanga to co-ordinate and facilitate the normalisation of the relationships between municipalities in Mpumalanga and Eskom.

1.2. I am duly authorised to depose to this affidavit on behalf of the Premier. I have personal knowledge of the facts herein, unless otherwise stated or clear from the context.

1.2.1. I have ample experience in local government;

1.2.2. I have years of experience in financial and business management;

1.2.3. I, as part of the Task Team, have researched the situation of municipalities in Mpumalanga and Eskom and I am continuously busy with investigations and the collection of further evidence and progress reports; and

1.2.4. I am, apart from the municipality of Mbombela, via the Task Team involved with the eMalahleni Local Municipality ("**ELM**") and I am studying their accounts and records. The Task Team has engaged with the Municipal Manager at ELM and with experts in electricity supply to municipalities.

2. I depose to this affidavit in support of the review application, which the (Coetzee) Applicants advised on 28 March 2018 they had elected to join:

2.1. I am of the view that Eskom's actions of self-help are unconstitutional and unlawful. Eskom's decision to terminate electricity supply to ELM is also premature and irrational and should be reviewed and set aside.

2.2. The Applicants in Coetzee indicated that they will not institute their own review application anymore, but are joining and/or supporting the Applicants in the review application instituted by Resilient Properties (Pty) Ltd and Others under Case Number: 83581/17. The latter matter is to be heard simultaneously with the first matter, following agreement by the parties at a meeting with the Deputy Judge President. This was explained in a letter from Coetzee attorneys dated 28

March 2018 attached hereto as "**ND1**". The Coetzee matter has, however, not been withdrawn.

2.3. Following the approach adopted in this letter, I am deposing to this affidavit and file same in both matters on behalf of the Premier in support of the review application.

[A] UNCONSTITUTIONALITY OF ESKOM'S DECISION

3. I support the view that Eskom is forcing ELM to settle alleged arrears owed to Eskom by way of inflicting a form of collective punishment on all the electricity consumers in the eMalahleni area.

4. Eskom's approach amounts to extreme self-help, without any judicial oversight. Eskom is taking the law into its own hands via its decision and stratagem to implement the interruptions.

5. I am of the view that section 21(5) of the Electricity Regulation Act ("**ERA**") does not serve as authority for Eskom to terminate electricity supply to ELM. The ERA provides its own mechanism for resolution of disputes by way of section 30. Section 21(5) has to be read in conjunction with section 30. To the extent that section 21(5) is read as an enabler for Eskom to terminate electricity supply to municipalities,

isolated from section 30, I support the view of unconstitutionality of section 21(5).

6. The continuous supply of electricity serves as a means to realise other fundamental rights such as rights to water, education and a healthy environment. Eskom's decision affects citizens' entitlement to these rights enshrined in the Bill of Rights. By implementing electricity interruptions, Eskom is effectively denying citizens these rights and is preventing the municipality to deliver on such constitutional obligations.

7. I however wish to add that the interruption of electricity also constitutes a deprivation of property rights. Eskom is a major public entity, performing a public function. Eskom's view it has no obligation towards the Applicants is therefore untenable. Eskom has the obligation to supply electricity to ELM as to other municipalities, which in turn have the public duty and obligation to supply their residents.

8. The paying customer, particularly the pre-paid ones, have an even stronger right to be supplied, which is not only a contractual right against ELM but also a public law right against ELM and consequently Eskom, which is the only entity permitted by law to supply electricity to ELM. When residents lawfully receive supply from ELM, Eskom is no more than

an extension of ELM, which is not permitted to generate its own supply or to purchase electricity from anybody other than Eskom.

9. To give notices of interruption and to terminate electricity supply to a municipality with the concurrent effect that paying consumers are deprived of electricity, is arbitrary and an interference with the enjoyment of property. No law (or action) may permit arbitrary deprivation of property.

10. The right to electricity and the duty on municipalities and Eskom to provide electricity resort in the category of incorporeal property, to which at least paying consumers have a basic right.

11. The means employed (namely the interruption of electricity supply) and the ends sought to be achieved (payment to Eskom by the municipality) bear no relationship. The use of the paying customers as leverage for the payment of ELM's debts, is both ineffective and unjust. A basic municipal service cannot be denied to paying customers because of the municipality's outstanding debts. To make service provision to paying customers contingent on ELM fulfilling its financial obligation to Eskom, lack a rational basis and is constitutionally discriminatory. The means chosen by Eskom is not rationally connected to the purpose.

12. As an organ of state, Eskom must act with the different tiers of government in a manner that is responsive, respectful and fair when fulfilling its constitutional and statutory obligations. This includes that, when ELM is at fault, Eskom must work with government to remedy its position, so that the citizens' rights may be protected.

13. Eskom's actions and threats of termination is therefore, in addition, a transgression of the property clause in the Bill of Rights, section 25 of the Constitution. Residents have acquired a public law right to receive electricity for which they have paid and for which they are paying. Eskom's interruptions deprive them of that right, not only of the right to receive electricity, but also of those rights referred to in paragraph 6 above.

[B] PREMATURITY OF ESKOM'S DECISION

[1] Failure to have NERSA adjudicate disputes with ELM

14. I am concerned about the fact that Eskom has not enjoined the National Energy Regulator of South Africa ("**NERSA**").

14.1. NERSA has been established by the National Energy Regulator Act, 40 of 2004 and *"is the custodian and enforcer of the regulatory framework provided for"* in the ERA.

14.2. Section 30 of the ERA prescribes that NERSA must, in relation to any dispute arising out of the ERA, intervene as a mediator between licensees if so requested; and if it is a dispute between a customer or end user on the one hand and a licensee on the other, settle the dispute by any means and on terms as the Regulator deems fit.

15. The dispute about the entitlement to interrupt the supply is primarily between the two licensees, namely Eskom and ELM. With an interruption, the rights of end users or consumers are also affected, drawing them into the dispute. Many of these consumers are not only fully paid up to date, but have in fact pre-paid ELM for their electricity. This is the only manner in which the so-called pre-paid consumers can obtain electricity. They have thus, as said above, acquired a public law right to receive electricity without interruption.

16. It cannot be just that Eskom be permitted to sidestep this mechanism when NERSA is obliged to *"settle the dispute by any such means and on such terms as the Regulator thinks fit."*

17. NERSA is a specialised administrative body and a court will pay deference to its views about any entitlement Eskom may have to interrupt the supply, or not to interrupt it. The attorney of record has written to

Eskom's attorney, requesting a joint approach to NERSA to resolve the impasse. A true copy of the latter is "**ND2**" hereto. No response has yet been received.

18. NERSA may in particular assist in assessing the reasonableness of Eskom's claim for arrear amounts allegedly owing. From the Report (dealt with below) it is evident that the Eskom amounts stand to be debated. NERSA may assist ELM when setting new tariffs or in any other way it may decide. Just as NERSA has in the past set special tariffs to keep Eskom afloat, it may do the same for ELM. Entities receiving direct supply from Eskom in ELM's territory, may be moved to be supplied on ELM's licence. These steps may increase ELM's income.

19. It is settled law that where a specialised framework has been created for the resolution of disputes, that parties must pursue their claims primarily through such mechanisms[WU1]. Eskom is therefore not at liberty to ignore NERSA and neither can NERSA negate its essential role in resolving the dispute in payment between ELM and Eskom.

[2] Constitutional obligation to resolve disputes[WU2]

20. Eskom is a major public entity and organ of state provided for in Schedule 2 of the Public Finance Management Act, 1 of 1999 ("**PFMA**") and its main source of business is the generation, transmission and distribution

of electricity in bulk within the Republic of South Africa and neighbouring countries. It conducts this business under the authority of licences granted by NERSA. Eskom is therefore an organ of state enabling municipalities to provide basic rights and is an extension of ELM in the sense.

21. Section 41(1)(vi) of the Constitution obliges all spheres of government and all organs of state to avoid legal proceedings against one another.

22. Section 41(3) of the Constitution obliges an organ of state involved in an intergovernmental dispute to 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 a court to resolve the dispute.

23. Eskom failed to comply with these obligations.

[3] Steps in addition to the Eskom PAJA notices to interrupt

24. I am concerned that Eskom decided to interrupt supply, without first exhausting statutory remedies and not approaching the Courts or NERSA to declare its entitlement to interrupt supply to ELM (or any of the other municipalities in the Province) and to declare the terms on which such interruption should be done.

25. Eskom is ostensibly of the view that it may interrupt supply, after following due administrative process. It is common cause that Eskom has to give notice to consumers before the termination or interruption of electricity supply. This was done in ELM. The constitutional obligations of Eskom does not, however, stop there:

25.1. Eskom has to work with all tiers of government, and, if necessary, even has to apply to compel the provincial executive and, upon his/her failure, the national executive, to act in accordance with s139 of the Constitution and chapter 13 of the Local Government: Municipal Finance Management Act, 56 of 2003 ("**MFMA**"). This is the constitutional and statutory framework which Eskom must activate to obtain payment of its debts. Eskom is obliged to exhaust these avenues.

25.2. To require from Eskom as a major public entity and organ of state to involve the provincial and national executives, cannot be an unreasonable burden. This would be more rational than to interrupt the supply of a basic municipal service to many paying customers and indigent citizens. Eskom must first exhaust those avenues created by the Constitution, namely to get government to redress the municipality's fault.

25.3. Eskom knows ELM is not deliberately withholding payment. It is in arrears for reasons more fully explained in a Report attached and dealt with hereinafter. It has nothing to do with an unwillingness to pay. In the main, socio-political problems have caused the inability, and it is to be resolved by all arms of government acting in unison. A decision to interrupt electricity will certainly not resolve the underlying problems or contribute to sustainable payment to Eskom.

25.4. Chapter 13 of the MFMA prescribes a process that Eskom should follow. This process is aimed at the provincial and national executive assisting the municipality to regularise its financial position. This is how Eskom must obtain payment of its debt, not by interrupting supply.

26. What has happened in ELM, and in other municipalities in the Province of Mpumalanga, is that Eskom does not employ the avenues provided for in the Constitution to ensure payment of its account. Instead, as a monopoly, Eskom high-handedly attempts to force municipalities to pay their debts, by interrupting supply, which they know is also intended to affect paying customers.

[4] Judgement Debts[WU3]

27. The State Liability Act 20 of 1957 (**"the State Liability Act"**) also provides for a mechanism for payment of debts. Where there is a court order sounding in money against the State, there are specific provisions for payment by the relevant Departments or Treasuries, to settle such debts. The State Liability Act furthermore makes provision for interested parties to approach a court to stay execution proceedings where such actions would severely disrupt service delivery, threaten life or put the safety of the public at risk, or is not in the interest of justice. The MFMA similarly provide via section 152 for a mechanism to stay legal proceedings.

28. Eskom has to date failed to issue summons for its alleged arrears. Instead, Eskom resorted to undue pressure via its decisions to interrupt electricity supply procuring payment from, inter alia, Municipalities Equitable Share Grants. This practice can certainly also not be tolerated.

[5] Eskom's own knowledge of the solution and prematurity of decision to interrupt

29. Eskom is clearly aware of the statutory remedies provided for by section 139 of the Constitution and Chapter 13 of the MFMA in instances where municipalities do not adhere to their obligations.

30. Eskom knew that the provincial executive commenced with assistance to ELM and other municipalities, so that it may be paid. To this end Eskom attended meetings with the Premier prior to taking the decision to interrupt. Eskom had to allow this process to be concluded before taking the decision to interrupt.

31. It can certainly not be in the interests of justice to permit a major public entity to resort to self help where there are specific statutes that allow for lawful process to resolve disputes between organs of state and where such organs of state are, in addition, actively involved. To allow the self-help of Eskom in these circumstances, does not only prejudice the actions of the executive to normalise ELM's relationship with Eskom, but stand to create even bigger problems of unrest and destruction of infrastructure in the province. The answer is not to interrupt the supply. The answer is for government to assist ELM to regularise its relationship with Eskom, even if it takes time given the complexity of issues.

32. Eskom's decision to interrupt the supply was therefore premature.

[C] IRRATIONALITY OF ESKOM'S DECISION

33. The Applicants contend that Eskom's decision is reviewable.

34. I am also of the view that Eskom's decision lacks any rational basis. I mention the following considerations:

34.1. ELM is making payments to Eskom. ELM does not, however, have the funds to immediately settle the historic amounts that Eskom is claiming. [WU4]I also established this fact as part of my involvement in the Task Team. Thus, to terminate or interrupt the supply of electricity, will not resolve the impasse.

34.2. To interrupt the supply of electricity will contribute to less consumers paying the municipality – the interruptions will thus cause the municipality to receive less income on the sales of electricity available as payment to Eskom.

34.3. Much of the amount claimed by Eskom comprises of historic debt. Not only does the Task Team show that the account of Eskom is to be debated, but is it abundantly clear that it is impossible to pay Eskom the amount claimed for historic arrears. Only government can resolve this problem in ELM and nationally.

34.4. In practice, the pressure exerted by Eskom resulted in municipalities paying Eskom from their Equitable Share Grants received via National Treasury. This practice results in an ever

increasing lack of funds for municipalities to expand services, including the provision of meters. Eskom's stratagem therefore worsens the position of municipalities, already stretched with limited resources.

35. Whilst Eskom is on the one hand exerting pressure on municipalities in Mpumalanga premised on so-called arrears, it is apparent that it fails to take action elsewhere against consumers to which it supplies directly. I have taken notice that Eskom is turning a blind eye to the debt of consumers in Soweto, whom are directly supplied by Eskom and who owe the latter in excess of R5,3 billion, representing almost half of the municipal debt of R13,624 billion that Eskom complains about and representing about 4 times the alleged R1,3 billion of ELM. Eskom thus prefers a naked preference on some of its customers, which amounts to unfair discrimination. This conduct offends section 9 of the Constitution, which guarantees the right to be treated equally and speaks of arbitrary, capricious and inconsistent treatment of ELM and other municipalities in Mpumalanga.

[D] THE CURRENT PROCESS

36. In addition, I am of the view that even if Eskom's decision under review is not set aside, Eskom still does not have any entitlement to interrupt

the supply to ELM. I form this view on the strength of current actions to regularise the relationship between ELM and Eskom.

37. I wish to explain certain processes currently underway in ELM. These facts show that the short payment of ELM referred to by the Applicants receive focused attention from the highest seat in Province.

38. The Premier showed his interest in the normalisation of the relationships between municipalities in the Province and Eskom. This stance was confirmed in letters in December 2017 and thereafter. The Premier was concerned that the relationship with Eskom was not normalised quickly enough.

39. Two main principles inform the approach: Eskom may not interrupt the supply and ELM must be assisted to find a way of settling its debts and of paying Eskom for the supply.

40. From a report ("**the Report**") provided to the Applicants and to Eskom, and filed in the High Court in Mbombela where a similar matter is pending involving the Thaba Chweu Local Municipality ("**TCLM**"), dated 26 January 2018, I quote par 88:

> *"Noting the continuous strain on municipalities and slow progress in resolving the impasse with Eskom, the Premier has instructed the*

Director General to appoint a Specialised Professional Services Task team to ensure a rapid response to the solution with Eskom. This team will probably consist of local government specialists, financial experts and legal experts:

88.1 the Task Team is considered to take control and co-ordinate all initiatives currently in progress and to report regularly to the Director General, the hon. Premier and to court as required."

41. I was instrumental in the compilation of the said Report and associate myself with the contents thereof. I annex a copy of the said Report hereto, marked "**ND3**", and pray that the Court read the Report as if specifically set out herein.

42. The Director General in the Office of the Premier addressed a letter to CA JV (Pty) Ltd ("**CAJV**"), accepting a proposal from the latter and confirming that the Premier was to establish a Task Team. He accordingly appointed a Task Team with a view to voluntarily intervene and to co-ordinate actions currently in progress and those emanating from the considerations of the Task Team. I annex a copy of the letter dated 18 January 2018 hereto, marked "**ND4**". This was followed up with a further letter from the Director General dated 23 January 2018 attached as "**ND5**".

43. On 2 February 2018 the Director General requested the Executive Mayor of Mbombela to release me from my ordinary duties to assist as Head of the Task Team. See **"ND6"**. On 13 February 2018 the Executive Mayor advised me that I was required to assist in this regard. See **"ND7"**.

44. The Task Team consists of the following full-time members as appears from **"ND8"**:

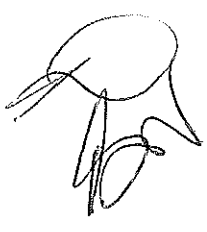
NAME	DESIGNATION	AREA OF EXPERTISE
Myself	Lead	Representation on behalf of Local Government
Mr P Bishop	Project Director	Assessment, Investigations
Ms R Boatwright	Consultant	SCM, Compliance
Mr C Adendorff	Senior Attorney	Litigation
Mr J Theron	Attorney	Litigation
Mrs Z Williams	Director	Governance
Mr S Williams	Project Manager	Management

45. Albeit that the composition of the Task Team was only finalised recently with the appointment of all members, I was asked to consider the current impasse with Eskom, as far back as at least November 2017. Being the municipal manager of the City of Mbombela that also faced electricity interruptions by Eskom, I was therefore ideally placed to commence with relevant inquiries some months ago. In my endeavours I engaged with inter alia the mayors and municipal managers of ELM and TCLM, and certain functionaries at ELM and TCLM such as the Chief Financial Officers. I dealt with provincial experts located in Provincial Treasury and Province's Co-operative Government and Traditional Affairs

Department, and I was able to engage with independent electricity, management and local government management specialists. Therefore, and albeit that the Task Team was only recently formally appointed, the team and I already possess a wealth of in-depth knowledge of the situation.

46. It goes without saying that the Task Team requires sufficient time to give effect to its duties and to oversee projects already being implemented and those planned for implementation. The team was formally appointed in late January 2018 and then received its mandate and budget. The Premier and the Third Respondent's unqualified view is that all reasonable steps are to be taken to ensure that electricity cuts by Eskom be averted. This stance includes that Eskom be paid what is due. This is what the Task Team is attempting to achieve.

47. The highwater mark from the Report is that, under the guidance of the Premier and with the MEC Cogta having primary responsibility, there is currently process in the Province to normalise the relationship with Eskom. I respectfully refer the honourable Court to the steps in process as is more fully set out in the Report. It is furthermore common cause that National Treasury has already dedicated resources to ELM to assist in the normalisation of ELM.



48. With full knowledge of the Premier's considerations and the process unfolding, Eskom has not considered a review of its stratagem to interrupt the supply of electricity to municipalities in Mpumalanga. Eskom wilfully ignores material evidence.

49. Thus far the efforts of the Premier have contributed to the interim interdict in ELM preventing Eskom from interrupting the supply. In TCLM it had the result of the supply being restored on 27 December 2017, after three months of interruptions, and a similar interim interdict was issued against Eskom. No municipality in Mpumalanga is currently experiencing interruptions by Eskom.

50. Thus, even if the review application is unsuccessful, Eskom is not at liberty to implement its November 2017 decision to interrupt ELM's supply. It will have to take a new decision based on current facts.

[E] OPPOSITION TO PORTIONS OF THE RELIEF SOUGHT

51. The Coetzee application was heard in December 2017 together with the Resilient Application. Coetzee apparently supports the review application of Resilient and will not launch a separate review application as explained in the letter attached as **"ND1"**.

52. The Applicants in Resilient are praying for relief of paying their accounts directly to Eskom (Founding Affidavit par 83.2). The Premier does not support this relief for the reasons contained in the affidavit filed by ELM.

[F] CONCLUSION

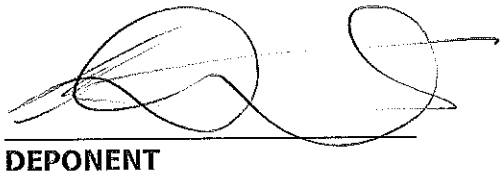
53. In the premises I pray that the review Application of Resilient (as ostensibly supported by Coetzee) be granted, save for the following:

53.1. Prayer 6.a. – a declaration that ELM's failure to pay Eskom is unconstitutional;

53.2. Prayer 6.b. – that payments be made by the Applicants directly to Eskom; and

53.3. Prayer 8 – the order for costs against ELM.

54. Instead, costs are to be ordered against Eskom only.



DEPONENT

I hereby certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at **MBOMBELA** on the 16 day of April 2018 the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES

BO CARL GUSTAV NILSSON

ADDRESS COMMISSIONER OF OATHS
EX OFFICIO
Certified Financial Planner ® (RSA)

OFFICE 8 Acacia Crescent
NELSPRUIT 1200

"NO1"

Johan Coetzee
INCORPORATED · GEINKORPOREER
Attorneys • Conveyancers • Notaries

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Docex 50, eMalahleni

Registration number: 1994/008761/21
VAT number: 4940147434
Level 4 BEE Contributor
www.jcat.co.za

Our reference / Ons verwysing: Johan Coetzee / Leonie / MAT33004
Your reference / U verwysing: CF Adendorff / CO00785

28 March 2018

ADENDORFF THERON INC

Mbombela

E-mail: carl@adendorffs.com

Dear Sirs,

RE: APPLICATION INSTITUTED BY WHJ COETZEE & OTHERS AGAINST ESKOM HOLDINGS SOC LIMITED & OTHERS UNDER CASE NUMBER: 83 453/17 ("THE CLASS ACTION APPLICATION")

APPLICATION INSTITUTED BY RESILIENT PROPERTIES PRORIETARY LIMITED & OTHERS AGAINST ESKOM HOLDINGS SOC LIMITED & OTHERS UNDER CASE NO: 83581/17 ("THE HIGHVELD MALL APPLICATION")

1. We refer to the abovementioned applications.
2. On 12 December 2017 the CLASS ACTION APPLICATION was postponed on following basis:

2.1 the parties agreed to approach the Deputy Judge President ("DJP") for an expedited hearing of the relief claimed in paragraph 3 of the notice of motion;

2.2 pending the finalization of paragraph 3 of the notice of motion, Eskom undertook not to interrupt the supply of electricity to the ELM;

Directors: Willem Helm Johannes Coetzee (B.Proc, LLB. Cert. Advanced Trust Law), Louis Jacobus Wessels (LLB), Matlosane John Mophethe (LLB, Adv. Cert. Labour Law, LLM, Cert. Business Rescue Practice) Wilma Nunes (LLB, LLM, Cert. Corporate Law)

In association with: Ian Baillie Attorney

member of phatshoanehenney GROUP OF ASSOCIATED LAW FIRMS

2.3 the cost of appearance of the on 12 December will be cost in the application.

3. The Resilient Application was postponed on similar terms.

4. At the request of the DJP, the party's legal representatives attended a meeting at the offices of the DJP on 6 February 2018. In particular, both your Mr Adendorff and your senior counsel were present during that meeting.

5. As you are aware, the above matters have been postponed to a special date from 14 to 16 August 2018.

6. Upon the party's legal representatives having agreed to certain milestones, our clients senior counsel undertook to draft a note with reference to the aforesaid milestones and to submit it to the DJP and through our offices to circulate it to the respective parties' legal representatives.

7. In accordance with that undertaking, senior counsel drafted the note and he sent it to our offices. As a result of an administrative oversight, the writer hereof did not submit it to the DJP and we did not circulate it to your offices. A copy was however sent to the attorneys of the ELM who was not present at the said meeting. A copy of the notice is attached hereto, marked Annexure "A".

8. As it appears from the aforesaid note, it was arranged that:

8.1 the ELM ("2nd Respondent") and the Premier, Mpumalanga Province ("3rd Respondent") is to file their answering affidavits before 16 April 2018; and

8.2 all other parties are to file their answering affidavits before 4 May 2018.

9. We confirm that the applicants in the Class Action Application have not launched a review application. Instead, and after having communicated with the legal representative acting on behalf of Resilient Properties (being the applicant in the Highveld Mall application), the applicants in the Class Action Application has elected to join with and support Resilient Properties and to this extent the applicants will request an order in terms of which the intended class action is certified.

10. In this regard we attach hereto, marked Annexure "B", a letter which we have recently sent to the legal representatives of Resilient Properties, the contents of which are self-evident.

11. We trust that the above is in order.

Yours faithfully,

JOHAN COETZEE INC.

Per

"A"

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case number: 83453/2017

In the matter between:

WILLEM HELM JOHAN COETZEE	First Applicant
SAVE EMALAHLENI ACTION GROUP	Second Applicant
SAMUEL NAPE on behalf of INTERESTED AND AFFECTED PARTIES	Third Applicant

and

ESKOM HOLDINGS SOC LIMITED	First Respondent
EMALAHLENI LOCAL MUNICIPALITY	Second Respondent
THE PREMIER, MPUMALANGA PROVINCE	Third Respondent
THE EXECUTIVE COUNCIL FOR PROVINCE OF MPUMALANGA	Fourth Respondent
THE MEMBER OF THE EXECUTIVE COUNCIL FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, MPUMALANGA	Fifth Respondent
THE MEMBER OF THE EXECUTIVE COUNCIL FOR TREASURY, ECONOMIC DEVELOPMENT AND TOURISM, MPUMALANGA	Sixth Respondent
THE NATIONAL ENERGY REGULATOR	Seventh Respondent
MINISTER OF WATER AND SANITATION	Eighth Respondent
OLIFANTS RIVER FORUM	Ninth Respondent

AND

Case number: 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

ARRANGEMENTS MADE WITH DEPUTY JUDGE PRESIDENT ON 6 FEBRUARY 2018

KINDLY TAKE NOTICE that the following arrangements have been made with the Honourable Deputy Judge President Ledwaba on 6 February 2018:

1. Both matters have been set down for hearing from **14 to 16 August 2018**;

2. Emalahleni Local Municipality ("2nd Respondent") and the Premier, Mpumalanga Province ("3rd Respondent") to file their answering affidavits before **16 April 2018**;

3. all other parties to file their answering affidavits before **4 May 2018**;

4. the respective Applicants' to file their replying affidavits before **18 May 2018**;

4. Applicants' Heads of Argument to be filed by **8 June 2018**;

5. Respondents' Heads of Argument to be filed by **28 June 2018**;

6. Parties to deliver detailed practice notes with their Heads of Argument and a joint practice note on **6 July 2018**;

Johan Coetzee
INCORPORATED GEÏNKORPOREER
Attorneys • Conveyancers • Notaries

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Registration number: 1994/008761/21
VAT number: 4940147434
Level 4 BEE Contributor
www. jcat.co.za

Our reference / Ons verwysing: Louis Wessels/MAT 33003
Your reference / U verwysing: MR. STEVEN KOKINIS

26 MARCH 2018

KOKINIS INCORPORATED
EREX HOUSE
CNR GENEVA & EILEEN ROADS
BLAIRGOWRIE
E-mail address: steven@kokinisinc.co.za

Dear Sirs,

IN RE: APPLICATION INSTITUTED BY RESILIENT PROPERTIES PRORIETARY LIMITED & OTHERS AGAINST ESKOM HOLDINGS SOC LIMITED & OTHERS UNDER CASE NO. 83581/17 ("the Highveld Mall Application")

1. As you are aware we have been appointed as the attorneys of record for the First, Second and Third Applicants in the application instituted against Eskom Holdings Soc Ltd and 8 others in the High Court of South Africa (Gauteng Division, Pretoria) under case number 83453/17 ("the Save Emalahleni Application").
2. The Second Applicant in the Save Emalahleni Application, is the SAVE EMALAHLENI ACTION GROUP, whose members consist of persons and entities who reside and do business within the area of the Emalahleni Local Municipality ("ELM").
3. We confirm that we are aware of the relief that you are seeking in Part B of the Notice of Motion in the Highveld Mall Application. Specifically that in prayer 1 thereof, an order is being sought for leave to be granted to the

Directors: Willem Helm Johannes Coetzee (B.Proc, LLB, Cert. Advanced Trust Law), Louis Jacobus Wessels (LLB),
Matlooane John Mophethe (LLB, Adv. Cert. Labour Law, LLM, Cert. Business Rescue Practice)
Wilma Nunes (LLB, LLM, Cert. Corporate Law)

In association with: Ian Baillie Attorney

member of phatshoanehenney GROUP OF ASSOCIATED LAW FIRMS

A member of the Phatshoane Henney Group of Associated Law Firms. The Phatshoane Henney Group is an association of independent firms, not practising in partnership or other corporate body.

applicants to claim the relief set out in paragraphs 3-7 of the said Part B thereof as a class action in terms of section 38(c) of the Constitution as representatives of all members of the class of consumers in Emalahleni who fall within the categories set out in "a" and "b" thereof.

4. This letter therefore serves to inform you that, in support of the relief being sought by the applicants in prayer 1 of Part B in the Notice of Motion of the Highveld Mall Application, our clients and inparticular the SAVE EMALAHLENI ACTION GROUP hereby–

4.1 requests that the intended class action referred to therein be and is hereby certified; and

4.2 confirms its support of the applicants in the Highveld Mall Application as the representative of the class in such intended class action.

5. We trust the above shall be sufficient for the purposes of your application, but should you require any further assistance please do not hesitate to contact us.

Yours faithfully,

JOHAN COETZEE INC.
Per:

"ND2"

Adendorff Theron Inc.

Date: 26 March 2018

Our reference: C.F. Adendorff/C00785
Your reference: Mr. Ngeno

NGENO & MTETO INC
Attention Mr. Ngeno
By email: tando@ngenomtetoinc.co.za

Dear Sirs

Re: ESKOM: MPUMALANGA PROVINCE: INTERUPTION OF BULK SUPPLY TO MUNICIPALITIES IN THE PROVINCE INCLUDING EMALAHLENI, THABA CHWEU, LEKWA AND VICTOR KHANYE.

1. As you know, we act on behalf of the Premier of the Mpumalanga Province in the matters concerning municipalities in the province defaulting on its obligations to your client, Eskom.

2. You are acting on behalf of Eskom in all the matters in the province where interim interdicts have been issued preventing your client from interrupting the supply, more specifically eMalahleni and Thaba Chweu. The litigation in Lekwa was settled with the Astral companies paying its bill directly to your client. Various court dates for the hearing of these matters have been set in courts in Pretoria, Mbombela and Middelburg.

Carl Adendorff (Director / Attorney) B.Proc, LLB & Diploma in Criminal Justice and Forensic Auditing (RAU), Mediator: Court Aligned / Family & Commercial Cell: 082-497-5112 | E-mail: carl@adendorffs.com / Fax to mail: 086 218-4642. Jacques Theron (Director / Attorney) LLB (NWU-PUK) Cell: 076 049 7438| E-mail: jacques@adendorffs.com Fax to mail: 086 558-4294. Assisted by Leenke Schraader LLB/LLM (NWU-PUK) Cell: 060-986-3402 / Email leenke@adendorffs.com, Dricus Raath Cell: 084-226-0551 / Email dricus@adendorffs.com, Letita Smith Cell: 082-897-8223 / Email letitia@adendorffs.com, Anjelien Schwirzer B.Proc, LLB (UNISA) Cell: 082 304-9253 / Email: anjelien@adendorffs.com and Maryke Theron (Office Manager) Cell: 076-281-6027 / Email: maryke@adendorffs.com
Tel: (013) 752-3902 / Fax: (013) 741-1815 / Post Net Suite 196, Private Bag X11326, Nelspruit, 1200.
8 Acacia Crescent, Cnr Figtree Street, West Acres, Nelspruit.
Registration number: 2016/540089/21
Vat Registration Number: 4870276674
Website address: www.nelspruitattorney.co.za

3. Your client has recently given notice of its intention to commence interruptions in Victor Khanye on 23 April 2018. We attach a copy of your client's notice for ease of reference.

4. The important role that NERSA plays in regulating the industry cannot be gainsaid. Yet, despite being a party in these matters and being fully aware of the disputes and consequent court cases between your client and municipalities in this province, it has not provided any guidance or assistance to any of the parties in these matters.

5. We have been instructed to liaise with NERSA to obtain its assistance in regularising the relationship between your client and the affected municipalities in the province. This approach is the initiative of a task team appointed by the Premier and is headed by Mbombela's Municipal Manager, Mr Neil Diamond.

6. We shall be pleased if your client would participate in this initiative, so that the province and Eskom may make a joint approach to NERSA. At this stage we do not seek to involve representatives from individual municipalities.

7. Further, as you are also aware, the task team is assisting Thaba Chweu and eMalahleni and much progress has been made to settle current and arrear debt to your client. The task team will do the same with other defaulting municipalities, including Victor Khanye.

8. Given this intervention, we request your client to refrain from interrupting the supply in Victor Khanye and to withdraw its notice of intention to do so. We

Carl Adendorff (Director / Attorney) B.Proc, LLB & Diploma in Criminal Justice and Forensic Auditing (RAU), Mediator: Court Aligned / Family & Commercial Cell: 082-497-5112 | E-mail: carl@adendorffs.com / Fax to mail: 086 218-4642. **Jacques Theron (Director / Attorney)** LLB (NWU-PUK) Cell: 076 049 7438| E-mail: jacques@adendorffs.com Fax to mail: 086 558-4294. Assisted by **Leenke Schraader** LLB/LLM (NWU-PUK) Cell: 060-986-3402 / Email leenke@adendorffs.com, **Dricus Raath** Cell: 084-226-0551 / Email dricus@adendorffs.com, **Letita Smith** Cell: 082-897-8223 / Email letitia@adendorffs.com, **Anjelien Schwirzer** B.Proc, LLB (UNISA) Cell: 082 304-9253 / Email: anjelien@adendorffs.com and **Maryke Theron (Office Manager)** Cell: 076-281-6027 / Email: maryke@adendorffs.com
Tel: (013) 752-3902 / Fax: (013) 741-1815 / Post Net Suite 196, Private Bag X11326, Nelspruit, 1200.
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Vat Registration Number: 4870276674
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are of the respectful view that it would be to the mutual benefit of our clients to resolve the issue of non-payment outside of further court action.

9. In the circumstances we respectfully request that you indicate, at your earliest convenience, your client's agreement:

9.1. to a joint approach to NERSA; and

9.2. to refrain from interrupting the supply in Victor Khanye.

1. We look forward to hearing from you.

Yours faithfully,

Carl Adendorff
Adendorff Theron Inc.

Carl Adendorff (Director / Attorney) B.Proc, LLB & Diploma in Criminal Justice and Forensic Auditing (RAU), Mediator: Court Aligned / Family & Commercial Cell: 082-497-5112 | E-mail: carl@adendorffs.com / Fax to mail: 086 218-4642. **Jacques Theron (Director / Attorney)** LLB (NWU-PUK) Cell: 076 049 7438| E-mail: jacques@adendorffs.com Fax to mail: 086 558-4294. Assisted by **Leenke Schraader** LLB/LLM (NWU-PUK) Cell: 060-986-3402 / Email leenke@adendorffs.com, **Dricus Raath** Cell: 084-226-0551 / Email dricus@adendorffs.com, **Letita Smith** Cell: 082-897-8223 / Email letitia@adendorffs.com, **Anjelien Schwirzer** B.Proc, LLB (UNISA) Cell: 082 304-9253 / Email: anjelien@adendorffs.com and **Maryke Theron (Office Manager)** Cell: 076-281-6027 / Email: maryke@adendorffs.com
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Website address: www.nelspruitattorney.co.za

Notice

INTERRUPTION OF BULK ELECTRICITY SUPPLY TO VICTOR KHANYE LOCAL MUNICIPALITY

Eskom hereby notifies all the key role and likely to be materially and adversely affected by its intention to interrupt bulk supply to Victor Khanye Local Municipality on 23 April 2018 and continuing indefinitely.

Victor Khanye Local Municipality is currently indebted to Eskom in the amount of R19 210 236 (Nineteen million two hundred and ten thousand two hundred and thirty six rand) for the bulk supply of electricity part of which has been outstanding and in contravention of the Municipal Finance Management Act 56 of 2003 (the MFMA).

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

Victor Khanye Local Municipality's breach of its payment obligations to Eskom undermines and placed in jeopardy Eskom's ability to continue the national supply of electricity on a financial sustainable basis.

In terms of both the provisions of the Electricity Regulation Act, 4 of 2006 and supply agreement with Victor Khanye Local Municipality Eskom is entitled to discontinue the supply of electricity of defaulting municipalities of which Victor Khanye Local Municipality is one for arrears of non payment of 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 Victor Khanye Local 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 interruption.

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

Week 1

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

Week 2

Monday to Friday	Saturday and Sunday
06:00 - 20:00	06:00 - 20:00

Notwithstanding the above proposed indicative times for the interruption of electricity supply Eskom may upon 15 working days notice exercise the right to disconnect electricity entirely and indefinitely around the recently duly situational interest.

To afford every access of affected parties to submit written representations, comments and/or submissions indicating why Eskom should not proceed with the contemplated interruption and/or disconnection as the case may be.

The following town/municipal areas will be affected by the contemplated interruption and/or disconnection except those already exposed by Eskom.

Victor Khanye Local Municipality/Customer Affected Town/Points of Supply

• Delmas

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

Senior Manager: Customer Services

Physical address: 21 Jansen Street, Delmas, 2210

Postal address: PO Box 3, Delmas, 2210

E-mail address: [illegible]

Fax: 086 [illegible]

The closing date for public representations, submissions, comments and/or requests for further information will be end of business 26 March 2018.

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

Should public representations, submissions, comments and/or requests for further information be received by Eskom and the said dispute will be resolved by a date not later than the week of 16 April 2018.

Reference Number: [illegible]

Regulation of the Promotion of Administrative Justice Act, 3 of 2000.

Carl Adendorff

From: Carl Adendorff <carl@adendorffs.com>
Sent: 26 March 2018 07:45
To: tando@ngenomtetoinc.co.za
Subject: Eskom: Notice to interrupt bulk supply to Victor Khanye Municipality
Attachments: 26 March Letter to Ngeno & Mteto Inc.pdf

Importance: High

Dear Sirs

Attached a letter for your kind attention and reply

Carl Adendorff
Adendorff Theron Inc.
Tel: (013) 752-3902
Fax: (013) 741–1815
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"N03"

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Case No.: 2295/2017

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DEVISION, PRETORIA

(FUNCTIONING AS THE MPUMALANGA CIRCUIT COURT, MBOMBELA)

In the application between:

SABIE CHAMBER OF COMMERCE AND TOURISM	First Applicant
LYDENBURG CHAMBER OF COMMERCE AND TOURISM	Second Applicant
GRASKOP CHAMBER OF COMMERCE AND TOURISM	Third Applicant

and

THABA CHWEU LOCAL MUNICIPALITY	First Respondent
MUNICIPAL MANAGER: THABA CHWEU LOCAL MUNICIPALITY	Second Respondent
EXECUTIVE MAYOR: THABA CHWEU LOCAL MUNICIPALITY	Third respondent
CHIEF FINANCIAL OFFICER: THABA CHWEU LOCAL MUNICIPALITY	Fourth Respondent
ESKOM HOLDINGS SOC LIMITED	Fifth Respondent
NATIONAL ENERGY REGULATOR OF SOUTH AFRICA	Sixth Respondent
MINISTER OF ENERGY	Seventh Respondent
MEC: COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent

2018 -01- 26

FUNCTIONING AS MPUMALANGA
CIRCUIT

MINISTER: COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS Ninth Respondent

THE PREMIER, MPUMALANGA PROVINCE Tenth Respondent

FILING SHEET: TENTH RESPONDENT'S REPORT TO COURT IN TERMS OF ORDER OF 28 DECEMBER 2017

TAKE NOTICE: that the Tenth Respondent hereby files the report to court in terms of order of 28 December 2017.

On Roll: 30 January 2018

Filed by: ADENDORFF THERON INC

DATED at Mbombela on this the **26TH** day of **JANUARY 2016** (Sgd) C.F. ADENDORFF

ADENDORFF THERON INC
Tenth Respondent's attorney
8 Acacia Crescent
West Acres
Nelspruit
Tel.: (013) 752-3902
Fax: (013) 741-1815 or 086-218-4642
E-mail: carl@adendorffs.com
Ref.: CF Adendorff / C00785

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

AND TO:

VAN DER MERWE & ASSOCIATES

(Applicants attorney)

62 Rigel Avenue

Waterkloof

Pretoria

Email: legal2@vdmass.co.za, simone@vdmass.co.za, gertvdmerwe747@gmail.com

C/O SEYMORE DU TOIT & BASSON INC

12 Murray Street

Mbombela

Tel: 013 752 4459

Ref: M Van Der Hoven/VAN1241/0001

Email: adutoit@sdblaw.co.za

Takeshaap
26/01/2018 10h45

Seymore du Toit & Basson
Attorneys / Prokureurs
34 Main Avenue
P.O. Box 2537 Nelspruit 1200
Tel: 013 752 4459

AND TO:

MATSANE ATTORNEYS INC

(1st to 4th Respondents' Attorney)

ABSA Square Office Towers

5th Floor

20 Paul Kruger Street

Mbombela

Tel: 013 752 8147

MATSANE ATTORNEYS Inc.
5th FLOOR
ABSA SQUARE OFFICE TOWERS
29 PAUL KRUGER STREET
NELSPRUIT

Received on.....Date.....Time.....

Signature:.....

friday 26/01/2018 10:56

Email: matsaneb@msatt.za.net, matsaneinc1@msatt.za.net

AND TO:

NGENO & MTETO INC

(5th Respondent's Attorney)

Unit C-C50

Brooklyn Office Park

488 Fehrsen Street

Brooklyn

Pretoria

Tel: 012 064 0525

Email: tando@ngenomtetoinc.co.za liwalam@ngenomtetoinc.co.za

SERVICE BY EMAIL

Carl Adendorff

From: Carl Adendorff <carl@adendorffs.com>
Sent: 26 January 2018 09:10
To: legal2@vdmass.co.za; simone@vdmass.co.za; gertvdmerwe747@gmail.com; matsaneb@msatt.za.net; matsaneinc1@msatt.za.net; tando@ngenomtetoinc.co.za; liwalam@ngenomtetoinc.co.za
Subject: Sabie Chamber and others vs Thaba Chweu and others / Premier's report to court
Attachments: 2295-17 Annexures A - F.pdf

Dear Sirs
Annexures A TO F

Carl Adendorff
Adendorff Theron Inc.
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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

(FUNCTIONING AS MPUMALANGA CIRCUIT COURT, MBOMBELA)

CASE NO: 2295/2017

In the matter between:

SABIE CHAMBER OF COMMERCE AND TOURISM	First Applicant
LYDENBURG CHAMBER OF COMMERCE AND TOURISM	Second Applicant
GRASKOP CHAMBER OF COMMERCE AND TOURISM	Third Applicant

and

THABA CHWEU LOCAL MUNICIPALITY	First Respondent
MUNICIPAL MANAGER: THABA CHWEU LOCAL MUNICIPALITY	Second Respondent
EXECUTIVE MAYOR: THABA CHWEU	Third Respondent
CHIEF FINANCE OFFICER: THABA CHWEU LOCAL MUNICIPALITY	Fourth Respondent
ESKOM HOLDINGS SOC LIMITED	Fifth Respondent
NATIONAL ENERGY REGULATOR OF SOUTH AFRICA	Sixth Respondent
MINISTER OF ENERGY	Seventh Respondent
MEC: COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Eighth Respondent
MINISTER: COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS	Ninth Respondent
THE PREMIER, MPUMALANGA PROVINCE	Tenth Respondent

REPORT TO THE ABOVE HONOURABLE COURT IN TERMS OF THE ORDER OF 28 DECEMBER 2017

INTRODUCTION

1. On 20 December 2017 the Premier of the Mpumalanga Province was joined to the abovementioned application as the tenth respondent. The applicants *inter alia* sought an urgent interim interdict preventing Eskom from continuing to interrupt the supply of electricity to Thaba Chweu Local Municipality (**"TCLM"**). On the same day a notice was filed by the Premier's attorneys of record in which support for the interim interdict was communicated.

2. On 28 December 2017 His Lordship Mr Justice Legodi issued an order interdicting Eskom from further interrupting the supply of electricity to TCLM. The interim relief was only granted until 31 January 2018 and will automatically lapse on that date, unless the parties agree otherwise or if any interested party launched a further urgent application.

3. The Premier was also ordered to report back to the above Honourable Court by 26 January 2018 on the steps taken by his office to regularise the relationship between Eskom and TCLM. This report is filed in compliance with such order. It seeks to provide some general

background to the problematic relationship between Eskom and a large number of municipalities countrywide. It explains the steps already taken by the Premier to regularise the complex relationship between Eskom and TCLM, and other municipalities in the Province, and finally explains what steps are still to be taken in this regard.

4. This report does not deal with the founding and answering affidavits in the application, but focuses the address herein on the report required by the Court. Attention is drawn to the following:

4.1. the Premier's rights are reserved to reply to the other affidavits in due course;

4.2. the indications are that the applicants and possibly TCLM will supplement their affidavits. In that case Eskom will presumably only file its affidavit thereafter;

4.3. if the matter is to proceed on Part B in March 2018, the Premier will file its affidavit thereto as soon as possible; and

4.4. the Premier has written to His Lordship Mr Justice Ledwaba and the relevant parties to transfer two matters relating to the eMalahleni municipality to Mbombela.

BACKGROUND TO AND STATUS OF THE CURRENT LITIGATION

5. During November 2017 the Premier was joined as a respondent in the matter of Coetzee & Others v Eskom & Others (Case No: 2799/2017) in the High Court, Middelburg. The applicants *inter alia* sought an interim interdict preventing Eskom from interrupting the supply of electricity to the eMalahleni municipality.

6. On 11 December 2017 a letter was addressed on behalf of the Premier to Eskom (see **"A"** hereto). Eskom was requested not to interrupt the supply given the Premier's efforts to regularise the relationship between Eskom and defaulting municipalities in the Province. The names of TCLM and Mbombela municipalities were specifically included in this request.

7. The same applicants subsequently launched an urgent application in the Gauteng North Division under Case No: 83453/2017, citing the Premier as a respondent. The application became necessary when it became evident that Eskom would commence interrupting the supply in eMalahleni. Resilient Properties (Pty) Ltd also launched an urgent application in the same court under Case No: 83581/2017, but without citing the Premier as a respondent.

8. The Premier was represented at the simultaneous hearing of the two urgent applications. Interim interdicts were eventually granted against Eskom (see **"B"** hereto). These matters remain pending.

9. On 19 January 2018 a letter was addressed to the Deputy Judge President, Pretoria in which the request was made that these matters be transferred to the High Court in Mbombela, so that they may be dealt with simultaneously with this matter (see **"C"** hereto). The request is still pending.

10. On the same day Eskom was requested to agree to an extension of the interim interdict to 31 March 2018 to allow the Premier sufficient time to regularise the relationship between it and TCLM (see **"D"** hereto). An answer is still awaited from Eskom. If Eskom does not agree to such an extension, a further urgent application will be necessary to prevent Eskom from again interrupting the supply. The applicants have indicated that in such event, they intend to renew their urgent application and the Premier will be represented in the event of such an eventuality to support the interim relief sought.

11. By taking the aforementioned steps, the Premier had successfully assisted to prevent the disruption of supply in eMalahleni. He also successfully assisted in restoring the supply in TCLM. In addition, the

Municipality of Mbombela successfully prevented Eskom from interrupting its supply through negotiations conducted by its Municipal Manager, Mr Neil Diamond.

12. Eskom is abiding by the court orders and is not presently interrupting the supply of electricity to any of the municipalities in the Mpumalanga Province. It is hoped that Eskom will agree to an extension of the interim interdict in the case of TCLM until 31 March 2018, thereby avoiding the need for further urgent court intervention.

13. The Premier is committed to a solution that entails that the electricity supply continues at all times without any interruptions whatsoever. The Premier is of the view that the national legislation applicable to the problem must be fully implemented to ensure that the municipalities function in accordance with their constitutional duties. This will entail that Eskom must be paid for the supply of electricity to municipalities. The sixth respondent, NERSA, must assist the parties to find a solution.

14. The Premier is of the view that whilst appropriate steps in terms of the national legislation are being implemented, it is not open to Eskom to interrupt the supply. The statutory framework is aimed at regularising the position between the service provider, in this case Eskom, and the municipality. Whilst that framework is being implemented, Eskom

should accept that the statutory intervention, which is designed to regularise the affairs of local government, takes precedence over its right to interrupt the supply.

15. Eskom's interruptions do not contribute to the municipalities' ability to effect payment of such debts as may be due to Eskom. The interruptions are disruptive of the local economy and even affect persons who have already paid for their supply. It adversely affects the supply of municipal services and the Premier's efforts to regularise the relationship with Eskom by reducing the municipality's income. It appears that Eskom adopted the interruptions as a strategy *in terrorem* to force the hand of municipalities.

BROAD OVERVIEW OF THE CURRENT POSITION OF MUNICIPALITIES

16. Municipalities are required to take on ever more responsibilities and to give effect to several constitutional imperatives such as the provision of access to housing, basic water and electricity.

17. The municipalities' resources are stretched and municipalities experience pressure on the delivery of basic services with the high levels of urbanisation. It is not only in the Mpumalanga Province that municipalities have defaulted in their payment obligations to Eskom.

There are a number of municipalities in the other provinces in the same position. In Mpumalanga approximately half of the municipalities are problematic from time to time.

18. All people are entitled to basic free services. The municipalities give effect thereto by providing inter alia access to water and electricity. From 2002/3 municipalities receive an unconditional grant known as the equitable share from national government via the Division of Revenue Act, Act 5 of 2002 ("**DORA**").

19. Municipalities serving towns such as Mashishing (Lydenburg), Sabie and Graskop experienced a huge influx of people that require basic services. The municipalities were not capacitated to deal with the pressures. Municipalities are, in general, faced with skills shortages and extremely high levels of needs whilst they have limited resources.

20. Municipalities do furthermore experience a lack of payment for services by substantial numbers of consumers.

21. Before 2012 there was in general not a problem with payments to Eskom, as existing infrastructure was in good order and sufficient capacity existed on networks. However, since about 2012 the bulk electricity purchases started to exceed the Notified Maximum Demand and over-extended current infrastructure.

22. Parliament has recognised the strain between municipalities and Eskom as a national problem and parliamentary members are investigating means to regularise the relationship between them. This has attracted much attention in the media. See for instance the media articles attached hereto as **"E"**, which reflect the work of an Inter-Ministerial Task Team to address this problem.

23. The reasons for municipalities defaulting in their obligations to Eskom appear to be diverse. The founding papers in this application create an image of TCLM deliberately electing not to pay Eskom for its supply. This is incorrect. The problem is much more complex. In many instances the solution requires assistance and guidance, not only from provincial government, but also from national government.

24. In 2015 the Provincial Cabinet approved an Integrated Support Mechanism available to municipalities assisting them with their financial management. This process was of limited success, as the Eskom account, for one, continued to escalate.

THE NATURE OF DEBT OWED TO ESKOM

25. The debt owed by TCLM to Eskom escalated since particularly 2012, but the true extent thereof is unclear. There are a number of reasons

why Eskom's demands for payment and TCLM's true indebtedness must be scrutinised.

26. Eskom appears to have inflated the debt by adding interest thereto at rates determined unilaterally by Eskom itself. The legal basis for the interest rate is unclear. On occasion interest was calculated at the prime rate of commercial banks plus 5%. After intervention by Parliament, SALGA and other role players it is being calculated at such rate plus 2.5% from 1 July 2017. NERSA will have to assist the parties to determine the exact and correct nature of the debt, as the bulk of the interest reflected on Eskom's billing, is still calculated at the previous rate.

27. Penalties make out a substantial portion of debt. Municipalities provide Eskom with what is termed its NOTIFIED MAXIMUM DEMAND ("**NMD**"). If the municipality exceeds its NMD, Eskom levies a penalty on the municipality. Again, the solution is for NERSA to assist in resolving the impasse resulting from this practice.

28. It has also turned out that Eskom coerced municipalities to sign acknowledgments of debt on threat of interruptions of the supply. Eskom then impose payback plans on the municipalities, including TCLM, which are unrealistic and unattainable. Nevertheless, Eskom

then presents these acknowledgments of debt and payback plans to demonstrate a liquidated debt and, presumably, rely on it as a tool to interrupt prescription. Serious doubt as to the true extent of the debt thus exists with defences of prescription and the *in duplum* rule to be investigated on behalf of municipalities.

29. Furthermore, interest, penalties and the amounts forming part of the payback plans are not ring-fenced, but form part of Eskom's current account. This complicates any solution aimed at settling a current account, which only includes current consumption. Again, NERSA should assist the parties to find a solution.

WHY IS TCLM NOT MAKING PAYMENT TO ESKOM?

30. TCLM does not have the funds available to satisfy Eskom's inflated demands. This inability is, however, only partly due to residents refusing to pay for their electricity supply, regularly referred to in the media as a culture of non-payment. The inability is equally due to other problems. One of the recurring problems is theft of electricity through illegal connections and tampering, such as unlawfully bypassing prepaid metres. The business sector contributes to the problem in an indirect manner. In the TCLM area recent experience demonstrated that upon the opening of a new mine, many job seekers

flocked from other areas seeking employment. Whilst the mine is supplied directly by Eskom, the employees settle down in an informal settlement, to be supplied by TCLM. Here they resort to illegal connections, etc. because of TCLM's constrained capability to promptly provide electricity in a structured manner. Furthermore, the refusal to pay is not always the result of general unlawfulness. In Emalahleni the closure of a mine wreaked financial havoc in the municipality. Many residents became unemployed and are consequently not in a position to effect payment. This creates a massive social problem for the municipality and not all non-payers can easily be isolated from the distribution network.

31. It follows that a combination of reasons exists to explain TCLM's inability to meet Eskom's demands. TCLM is not responsible for all the reasons that combine in its inability, and as already stated, this is recognised by national government.

DISASTEROUS EFFECT OF INTERRUPTION

32. The interruptions have a massive disastrous impact on municipal services, particularly those relating to water supply and sanitation. Hospitals are coming under pressure as they go either without

electricity or have to generate their own. Business in TCLM was severely affected by the interruptions.

33. In TCLM it became evident that the interruptions also affected those persons whose electricity bills were paid up to date, and even consumers who pre-paid for electricity. The number of pre-paid customers far outnumber the number the conventional customers. It is unfair and irrational to interrupt the supply of electricity to these customers.

34. There is no positive contribution made by attempts to force payment through interruptions. The ultimate goal of receiving payment simply cannot be attained by interrupting supply. Only better management in the municipalities based on correct facts can achieve payment.

ASSISTANCE BY THE PROVINCE

35. The Constitution provides for intervention by the Premier when a municipality fails to comply with its obligations. National legislation, in particular the Municipal Finance Management Act and the Municipal Systems Act, provide for a framework for such intervention to take place.

36. Over the last few years the Premier has implemented Chapter 13 of the MFMA and Chapter 10 of the Systems Act on a number of occasions, including in the case of TCLM. Much progress has been made. Where TCLM, for instance, once outsourced its whole financial administration to a private company, it now again has a Municipal Manager, a Chief Financial Officer and other employees. An Electrical Engineering Manager with the degree of Tech Eng. was appointed. These appointments were done as a direct consequence of provincial assistance. It should be evident that provincial government is committed to regularise problems experienced in TCLM.

CONCISE OVERVIEW OF PROBLEM

37. Since 2016 Provincial Treasury has held several meetings with municipalities and collated information relating to the following in general:

37.1. municipalities that were selling electricity at a loss;

37.2. municipalities such as TCLM that suffered from substantial losses on distribution. The national standard and accepted loss is 15 – 20%, and TCLM for one, exceeded this norm;

37.3. Eskom supplies directly to certain clients in the areas of the respective municipalities. In the case of TCLM, Eskom often supplies directly to mines and foresters. Eskom refuses to disclose its accounts with these clients to the municipalities. The respective municipalities need this information to negotiate a surcharge on these accounts as income to the municipality;

37.4. whilst Eskom supplies to "blue chip" clients directly within the supply area of TCLM, the municipality are left with the effect of the growth or actions occasioned by the mines and the foresters. In short, Eskom reaps profits whilst leaving socio-economic burdens with TCLM;

37.5. for several years NERSA allowed increases to Eskom, which were higher than those that NERSA allowed municipalities to raise to its customers. Effectively therefore, the municipalities' margin on the income generated on the sale of electricity decreased to such an end that a loss was evident (**"the NERSA limited increase"**).

38. National Treasury recently announced a Municipal Finance Improvement Program (**"MFIP"**). The effect of this project is that

experts are deployed to municipalities in dire need of expertise. The impact of the MFIP will be seen from end of January 2018 and onwards.

39. In its supplementary answer to Court of the urgent matter heard on 27 December 2017, Eskom alleged that the Premier failed to act and that there was no follow-up after the letter by Eskom dated 20 September 2017. Premised on this incorrect allegation, Eskom wished to dismiss the Premier's request to Eskom to hold over any interruptions pending his continued consideration of the matter. Set out herein below is evidence of some of the efforts by the Premier to date. What is abundantly clear is that more time is necessary to resolve the impasse, whilst the interruption of electricity supply serves no rational purpose.

40. What is and remains of concern is that Eskom failed to exhaust all remedies available before resorting to electricity interruptions. There is a sudden haste by Eskom to obtain acknowledgments of debt, payback plans and impose heavy-handed action to force payments, which cannot be explained in terms of Eskom's inaction in preceding years. By adopting this sudden approach, Eskom bypassed NERSA.

REPORT ON STEPS TAKEN

Problem with payments to Eskom – January 2016

41. During January 2016, the MEC for Finance, Economic Development and Tourism ("MEC Finance") addressed a letter to the MEC for Co-operative Governance and Traditional Affairs ("MEC COGTA") which drew reference to engagements between National Treasury, Provincial Treasury and municipalities with regard to the failure of municipalities to pay their current Eskom accounts and defaults on payment agreements. (A copy of the letter is annexed hereto, marked **"F"**.)

42. The MEC Finance's letter spoke about the municipalities' culture of non-payment and the threat of National Treasury withholding funds (conditional and unconditional grants) to the municipalities that commits serious or persistent breaches.

43. Provincial Treasury requested municipalities to submit detailed reports on the current status of their Eskom accounts as well as municipalities' plans to honour the arrangements with Eskom; and municipalities were requested to submit proof of payments made to Eskom.

44. At the time the provincial strategy was focused on exerting pressure on municipalities and to force a discipline of making payments.

45. The above strategy was only partly successful, as the reasons for non-payment are too complex and not properly addressed by a simple procedure aimed at forcing payment.

Appointment of Professional Service Providers – June 2017

46. To exert pressure on municipalities, such as TCLM, resulted in little improvement. In 2017 Mr Basie Strauss, a key employee in Provincial Treasury and mandated to support municipalities since approximately 2012, requested approval from the Head of Provincial Treasury for a process to appoint professional service providers to support municipalities with improvement of cash flows and funded budgets. (A memorandum marked "**G**" is annexed, together with the terms of reference for sustainable financial solutions in municipalities). In the memorandum it is recorded that most local municipalities are struggling with financial sustainability due to the approval of unfunded budgets, and an inability to bill and collect revenue, which places a serious strain on cash flow.

47. The need was identified to appoint service providers to provide support to various municipalities, including TCLM and to assist them with sustainable solutions in order to improve their cash flow positions and to table funded budgets.

48. It was specifically recorded that Provincial Treasury budgeted R8m for the remainder of this financial year for the appointment of service providers to be deployed to assist municipalities. It is anticipated that a large portion of this amount will be spent in the current financial year.

49. The request to develop the database with approved service providers was duly approved.

50. A follow-up request to advertise a tender with the purpose to appoint a panel of Professional Service Providers to assist Municipal Finance in supporting municipalities with improvement of Financial Management, was approved by the Head of Provincial Treasury on 4 July 2017. In support therewith, the approved request is annexed hereto, marked **"H"**.

51. The tender process for the service providers was finalised and a database of 35 service providers was approved. In support, a copy of the names on the database is annexed, marked **"I"**.

52. Terms of reference were specifically developed for TCLM. The evaluation process is currently taking place, with the adjudication process scheduled for completion by 29 January 2018. The service

provider for TCLM is allocated to commence with assistance to the Municipality from February/March 2018.

53. To the extent that the terms of reference speak of completion of the assignments by 20 February 2018, such date has been extended due to the following:

53.1. Provincial Treasury had to go through a public tender process before it was able to construct the database of service providers;

53.2. agreements had to be negotiated with the respective successful bidders;

53.3. the Municipal budget outcomes prepared by August 2017 had to be considered and presented allowing for buy-in in the solution of allocating experts; and

53.4. the successful bidders had to be allowed time (taking cognisance of the festive period) to plan and make available resources.

54. It is envisaged that the appointment of a Service Provider in this regard will greatly assist TCLM to improve its revenue stream.

Report on Municipalities who fail to honour Eskom Accounts – early August 2017

55. In early August 2017, the Head of Provincial Treasury received a report on the status of current and arrear Eskom debt for the period up to end of July 2017. A copy of the report is annexed hereto, marked "**J**".

56. In the report it is specifically recorded that a meeting was held on 26 July 2017 with all affected municipalities who are in arrears with Eskom and that the meeting was attended by Eskom management, Municipal Managers, Chief Financial Officers and the Provincial Treasury Officials.

57. At the time (see page 6 of the report) it was recorded that Thaba Chweu owed Eskom R384m. The parties present discussed the challenges to the Municipality and the remedial action. The remedial action, inter alia entails:

    57.1. appointment of by-law officers to police illegal connections;

    57.2. installation of prepaid electricity with about 1 500 households as target;

57.3. reconfiguration of MVA transformers to limit excess NMD usage (i.e. to prevent Eskom penalties on use of electricity exceeding the notified maximum demand levels);

57.4. revenue enhancement initiatives (i.e. top 100 debtors, debt compromise etc.);

57.5. debt recovery mechanism with 70/30 prepaid electricity sale and debt servicing; and

57.6. continuous removal of the illegal household connections.

58. As recommendations at the time, it was recorded that the debt to Eskom be noted and that the Provincial Treasury assist municipalities to develop affordable and realistic payment arrangements with Eskom, and that the Provincial Treasury consider assisting municipalities with a financial recovery plan.

59. With the allocation of resources to TCLM by the end of January 2018, the above solutions will be actively forced and driven, and will it be possible to report thereon on a continuous basis.

The Municipal Budget Outcomes – August 2017

60. Noting that municipalities failed to adhere to their obligations, Provincial Treasury assessed the current year's municipal budgets.

61. From August 2017, the outcomes of the assessment of the municipal budgets were presented by Provincial Treasury to the Premier's Co-ordinating Forum ("**CEF**"), Provincial management, Heads of Departments and the Mayors of the municipalities. A copy of the presentation is annexed hereto marked "**K**".

62. The purpose was to report on the status of the municipal budget assessments conducted by Provincial Treasury for the 2017/2018 financial year. These budgets are currently in place.

63. Nine municipalities were found to be unfunded (i.e. municipalities that budgeted for substantial shortfalls in their income). TCLM is one of these municipalities.

64. To establish whether the respective municipalities allowed for savings, the budgets were further analysed. The following were found at TCLM:

64.1. the unfunded portion of the budget is substantial;

64.2. the percentage of salaries compared to the total budget, is only 26%, whilst the norm is between 25% and 40%. The budgeted salary bill is therefore not excessive and does not provide a natural starting point for savings. [It was however subsequently established that there is an actual overspending as will be seen further on in the report];

64.3. only 2% of the total budget was budgeted for repairs and maintenance. The prescribed norm from National Treasury is 8%. Maintenance is therefore lacking and continued under spend on maintenance will impact negatively on service delivery;

64.4. the municipality experienced operating deficits from 2013/14 as follows:

64.4.1. for 2013/14 – R122 620m;

64.4.2. for 2014/15 – R187 406m;

64.4.3. for 2015/16 – R148 676m; and

64.4.4. for 2016/17 on the final approved budget – R19 944m;

64.5. where TCLM's operating budget shows a persistent trend of deficits over the years it is indicative of financial imbalances. These problems may be related to a failure to collect revenues, to low tariffs and high expenditures;

64.6. in TCLM, the budget deficit certainly shrunk. It was also established that the deficit is not as a result of high expenditures, and that the problem is to be sought in the failure to collect revenues and to low or incorrect tariffs;

64.7. TCLM's position regarding cash/cash equivalents at the end of a budget year remained relatively stable from 2013 – 2016, albeit that the provision does not include long term commitments and does not provide for the full Eskom bill as well. TCLM initially budgeted for a deficit of R16 182m, which was amended to R24 766m afterwards;

64.8. an analysis of the cash backed reserves of the municipality further affirmed the position of TCLM with outstanding debt to Eskom, the Water Board and other creditors and shows a consistent inability to collect outstanding debt. The unfunded portion of TCLM's budget for 2017/2018 demonstrates a shortfall of about R16m per month budgeted. There is, on

the analysis of this picture, therefore not money currently in the municipality to pay any acknowledgement of debt towards Eskom;

64.9. the position with creditors remain rather consistent from 2014/2015 with the final approved budget showing outstanding payments from creditors as R427 874m, or about R35,6m per month over 12 months. There is a concern that effective controls are not in place to ensure prompt payment of creditors and this picture supports the notion that TCLM is experiencing cash flow problems;

64.10. the position on debtors and the trend thereof is reason for concern. Whereas TCLM had a debtor's book budgeted for R33 177m in 2013/14, the position deteriorated to R203 534m in the final approved budget for 2017/18. (The initial budget for 2016/17 of only R86 000m, understated the debtors position.) It is clear that TCLM experiences an inability to collect payments;

64.11. on the liquidity ratios done on the budget of TCLM there was however a substantial improvement, save for the account of Eskom. The liquidity ratio is used to measure the

Municipality's ability to pay back its short-term liabilities. If Eskom is left out of the picture for the moment, there is a substantial increase from a ratio of 0,35 in 2013/14 to a ratio of 1,46 for the final approved budget of 2017/18. A ratio less than 1 indicates that the municipality is unable to pay its current and short-term obligations. Albeit that there are some improvements, the situation and address of Eskom remain dire;

64.12. certain cross-cutting issues were identified and subsequently discussed at a high level. At the time it was recorded that the situation requires a strategic response to address, in general, the following:

64.12.1. the culture of non-payment;

64.12.2. operational inefficiencies;

64.12.3. focused attention to be given to Eskom and the arrears owed to Eskom;

64.12.4. a focused response on all creditors;

64.13. the recommendations tabled in August 2017 were the following:

64.13.1. all municipalities to ensure that budgets become funded over a period of three years. (The budgets for 2018/19 are currently in the preparation phase);

64.13.2. all municipalities to ensure accurate reporting;

64.13.3. municipalities to prioritise the implementation of revenue plans (This aspect is currently in discussion at TCLM);

64.13.4. sustainable payment plans to be developed for all creditors;

64.13.5. the valuation roll and billing system must be reconciled ensuring correct/all consumers are billed. (This project is to be commenced by a Service Provider to be appointed from February/March 2018 in TCLM);

64.13.6. municipalities to consider the billing of land owners only, and not also users renting from owners, to simplify the municipal billings. This policy will have the effect of reducing the number of accounts and will simplify financial record keeping.

65. The key crosscutting issues raised and the recommendations made were considered by the respective forums to whom the report was presented and the Premier is able to report the following:

65.1. there is agreement by all key stakeholders on the contents of the Municipal Budget outcomes;

65.2. resources are to be made available to assist in addressing the issues and the recommendations.

Support to municipalities – October 2017

66. In October 2017, and following upon the above Municipal Budget Outcomes, Provincial Treasury presented to the Premier's Coordinating Forum (which involve the Premier, MEC's, Heads of Departments, Municipal Managers and Mayors), a report on the support to municipalities. A copy of the report is annexed hereto, marked "**L**".

This meeting is also open to Eskom where specifically the issues regarding Eskom are discussed.

67. With the focus on what is styled as "game changers", Province will seek to normalise the top twenty creditors which include Eskom and the Water Board's debt. The game changers are, in short: -

67.1. ensure that municipal budgets are funded;

67.2. improve municipal revenue management, including billing practices and revenue collection;

67.3. improve municipal asset management;

67.4. assist and ensure that all municipalities comply with the Standard Charter of Accounts for Municipalities; and

67.5. improve Supply chain management practices.

68. It was affirmed that National Treasury is in a process to appoint and deploy technical advisors to all Provincial Treasuries. Page 10 sets out that Provincial Treasury already received two advisors and a technical advisor was deployed to eMalahleni Municipality. It was also recorded that Provincial Treasury established a data base and service providers

are to be deployed to critical (red zone) municipalities as phase one, including TCLM.

69. Page 13 in the presentation deals in detail with TCLM. Contributing factors to the unfunded budget are inter alia, the culture of non-payment for services, distribution losses due to an inability to bill all users, tampering of meters (electricity and water), inability to pay creditors, huge increases in the debt book, trading losses on basic services, i.e. electricity, inability of Council to install prepaid meters and unplanned expenditure.

70. The Premier's Coordinating Forum gave its approval on the support to municipalities.

Meeting between the Premier, Provincial Treasury, COGTA and Local Municipality – 17 October 2017

71. On 17 October 2017, the Premier chaired a meeting with Mayors, Municipal Managers and Chief Financial Officers. The purpose of the meeting was to measure the progress of municipalities' payments towards Eskom as the municipalities were battling in servicing the Eskom arrear accounts and payment of current accounts, as the situation causes instability in the Province. The minutes are annexed hereto, marked **"M"**.

72. For TCLM it was recorded that Eskom was owed R390m and that the municipality was listed for electricity supply interruptions by Eskom. Such interruptions actually commenced on 9 October 2017. It was noted that protests had already started in the municipality. The key problems were identified as illegal connections, members of public that refuse to be metered and that do not want to pay for electricity.

73. The Premier asked for a follow-up meeting on 23 October 2017 to include municipalities, Eskom and Vodacom.

Follow-up meeting of 23 October 2017

74. On 23 October 2017 the Premier had separate follow-up meetings with the different municipalities.

Brief to the MEC COGTA by 23 October 2017

75. Provincial Treasury visited TCLM following a distress call by the municipality concerning its cash flow status. Provincial Treasury reported to the MEC COGTA, which report is annexed hereto, marked **"N"**.

76. The following was recorded:

76.1. The Municipality received its equitable share (Government grant) in July 2017 in the amount of R51,831m, and paid most of it to Eskom for electricity, namely R33,398m;

76.2. for the months of August, September and October 2017, the Municipality only received an income of about R22m- R23m – totally insufficient for its expenses ranging from about R25m to almost R43m per month from August to October 2017. To be noted is that the expenses from August to October 2017 do not include the arrear debt to Eskom;

76.3. the forecasted negative cash flow balance for TCLM is R117m, which does not include a further R448m worth of creditors outstanding as at 25 October 2017;

76.4. it is clear from the current situation that TCLM is unable to honour any acknowledgement of debt and that it does not have the resources to afford a repayment plan.

77. It was furthermore recorded that the electricity management in TCLM is not effective with a concern that the municipality is only billing on average for 65% of electricity purchased from Eskom.

78. Not recorded as such, but evident from the table on Electricity Purchases versus Sales, is that the municipality does not provide on its billing system for a winter tariff, for the months from June to September 2017.

79. It is clear that the municipality is trading electricity at a loss and is currently not recovering the bulk cost, inclusive of penalties, of electricity from consumers.

80. On the actual expenses (versus the comparison to the budget above) the compensation of employees constitutes 45% of the total municipal expenditure, despite the budgeted percentage of about 26%.

81. It is specifically recorded that *"Payment of electricity bulk purchases for the remaining months* (of the financial year) *is a huge challenge and the payment of arrear Eskom account is not possible as the municipality monthly income is less than the Eskom monthly current account."* (see page 8 of the report).

82. Key issues highlighted during the engagement with the municipality, are inter alia: -

82.1. revenue management;

82.2. poor credit control;

82.3. tariff setting which deals with a NERSA-issue with the latter not allowing increases to the municipality in line with those allowed for Eskom;

82.4. losses of water and electricity resulting from actual losses, billing and metering inaccuracies and theft. It is observed that the municipality is supplying electricity to thousands of households where the supply is simply not metered;

82.5. ownership of the electricity infrastructure by the municipality which does not have the cash flow to attend to repairs and maintenance. It is to be considered to offer the electricity infrastructure to Eskom to set off the debt to Eskom;

82.6. several recommendations are made which range in dates for implementation to March 2018.

Meeting of 12 December 2017 between Thaba Chweu and Eskom

83. On 12 December a meeting took place between TCLM representatives and Eskom. Various options were discussed to restore the supply to the municipality, as appears from the minutes marked **"O"**.

National Treasury's Assistance

84. On 3 July 2017 National Treasury made a presentation to Province with regard to technical support made available to Province via the Municipal Finance Improvement Programme ("**MFIP**"). The presentation was made to Provincial Treasury. A copy of the presentation is annexed hereto, marked "**P**".

85. Page 6 of the presentation specifically deals with the assistance to Provincial Treasuries, commencing with the appointment of a specialist coordinator at National Treasury. Page 8 sets out support directly to municipalities.

86. National Treasury tendered appointment of Advisors that will assist the Municipal Manager, Chief Financial Officer or the Head of Department to develop and implement plans to address the current challenges in municipalities.

87. Provincial Treasury was allocated five persons from National Treasury to delegate and assist municipalities. One such person has already been allocated to eMalahleni and a second will hopefully be allocated to TCLM by the first week of February 2018.

Provincial Task Team

88. Noting the continuous strain on municipalities and slow progress in resolving the impasse with Eskom, the Premier has instructed the Director General to appoint a Specialised Professional Services Task Team to ensure a rapid response to the solution with Eskom. This team will probably consist of local government specialists, financial experts and legal experts:

88.1. the Task Team is considered to take control and co-ordinate all initiatives currently in progress and to report regularly to the Director General, the hon. Premier and to court as required.

TCLM SPECIFIC INTERVENTIONS

89. There is a long history relating to the challenges experienced in TCLM, which are relevant for the consideration of the Court.

Previous Interventions

90. To date, there were three interventions in TCLM in terms of section 139 of the Constitution. These interventions allowed for temporary improvement in payments to Eskom, but such solutions did not resolve

the systemic problems suffered by TCLM. Albeit that Eskom received payments during such periods, such "forced" payments came from limited resources, which in turn impacted negatively on service delivery in many other respects.

91. It did however transpire that part of TCLM's financial woes resulted from the outsourcing of financial management to an entity named "Shining Star". During the period of outsourcing the financial structure collapsed. There was, for example no Chief Financial Officer and no Municipal Manager. The services of "Shining Star" were terminated and steps were set in motion to develop the municipality's ability to take control and manage its own finances.

Appointment of Municipal Manager & Budget process

92. The new Municipal Manager, Mr Thoka Kgoale, was appointed on 2 May 2017. Mr Kgoale has extensive experience in administration and has, amongst other, previously served in the Blouberg Municipality where the Municipality succeeded with unqualified audits by the Auditor-General.

93. At the time of his appointment, the current budget was already approved. Mr Kgoale could therefore only work within the budget and allocate monies to the best of his ability therein.

94. The budgeting process runs up to June annually by which time the new budget must be approved. The budget is implemented for a financial year that runs from 1 July to 30 June of the next year.

95. The new budget for TCLM is therefore in its final development stages.

96. It will be possible to report to Court by end of May 2018 on allocations in the budget, which will include provision for payment of arrears to Eskom.

Performance Management agreement with Mayor

97. A further initiative already implemented is the Performance Agreements that the Mayors in the Province have with the Premier. A substantial part of their bonuses is linked to their respective municipalities' payment of their Eskom accounts.

98. The Performance Agreement with the Mayor in TCLM, Counsellor Selina Mashigo-Sekgobela, is similarly in place.

Audit of supply points

99. The Premier also prioritised an audit of supply points to address the distribution losses, billing of clients and on illegal connections.

100. There are, for example in Lydenburg about 8000 properties listed on the valuation roll with about 2800 of such properties not metered for electricity. The same exercise is to be done for Sabie and Graskop. With this exercise being done, the Premier will be able to assist the municipality with steps to increase the revenue base. It is foreseen that a report on progress in this regard can be filed by end of April 2018.

Cost Reduction

101. To release more money as payment to Eskom, municipalities such as TCLM were asked to review contracts and costs with a view to reduce expenses. The process is ongoing. The improvement will be recorded in the new year's budgets to be tabled for approval by June 2018. It will therefore be possible to report by July 2018 on all distressed municipalities with payments reasonably available as payment to Eskom's arrears.

MFIP and COGTA assistance

102. Via the MFIP referred to herein above, National Treasury has allocated experts to the Province of Mpumalanga effective since December 2017 to grow and increase capacity. The holidays impacted on the resources and they are therefore only effectively available to the Province since

approximately 15 January 2018. The Premier will in due course be able to report comprehensively on their impact on the Province.

102.1. Initially only one expert was allocated to the Province, but that has since been increased to five.

102.2. One of the five is directly placed at eMalahleni.

102.3. A further resource is tasked for placement directly at TCLM and to commence from 1 February 2018.

103. The impact of the assistance can only be measured and reported on once it has taken effect.

COGTA IN PROVINCE: *CHARGE D'AFFAIRES*

104. COGTA in the province has a designated employee responsible to coordinate any energy problems within the province. The position is within the directorate for technical services. The incumbent is Mr. Welcome Fanie Ngwenyama who holds a BTEC in Electrical Engineering from the Tshwane University of Technology.

THABA CHWEU CUSTOMER BASE

105. From a broad overview of the customer base in Thaba Chweu the following remarks are made:

105.1. there are about 13855 pre-paid customers;

105.2. 147 Large power users; and

105.3. 1676 Customers with conventional accounts (digital meters).

ELECTRIFICATION PROJECTS AT THABA CHWEU

106. COGTA is of the view that illegal use of electricity can only be managed and stamped out with the provision of legitimate or lawful electrical connections.

107. The municipality did not have an allocated budget for additional electrification projects and could therefore not effectively reduce illegal connections and theft of electricity. This was the position for the past three years where there was no budget.

108. COGTA in the province engaged with the National Department of Energy and secured an amount of R13M for electrification projects at

TCLM for implementation in the 12 months ending June 2018. This funding was secured from the Integrated National Electrification Program ("**INEP**"), an initiative on a national level that has among others, the focus of addressing the shortfall in payments by municipalities to Eskom.

109. COGTA furthermore assisted the municipality to secure a provider to accelerate the municipal electrification program.

110. With the R13M allocated to Thaba Chweu the following work was chartered:

110.1. electrification of 525 households at Nkanini in Simile for an amount of R4.5M. These works are to be completed by April 2018;

110.2. electrification of 100 RDP households at Sabie Ext for an amount of R1.4M. The targeted completion date is mid-February 2018;

110.3. electrification of 406 RDP households at Mashishing Ext 6 for an amount of R5M. The targeted time for completion is April 2018;

110.4. the supply, delivery and installation of a 5MVA transformer at Mashishing substation for an amount of R2.1M. The planned completion date is mid – February 2018.

111. With the above transformer operational the penalties raised by Eskom on the notified maximum demand (**"NMD"**), will reduce.

112. The electrification of the above households (525 + 100 + 406) will increase the number of pre-paid customers by approximately 8% whilst it will on the other hand positively impact and reduce illegal use of electricity by an estimated 8%. This amount of extra income will substantially reduce the current short fall.

113. Mr. Ngwenyama is assisting TCLM to ensure that it receives a further grant in the next financial year from INEP. These grants will go a long way to further stabilize the municipality.

114. In addition, the provincial budget also allocated an amount of R11 million to TCLM in 2017/8. This amount was used to target some 574 illegal connections and to introduce smart metering in TCLM from October 2017.

BILLING AT THABA CHWEU

115. There is a definite improvement in the billing process of TCLM. Mr. Ngwenyama personally assisted employees at the municipality in developing a proper billing system. Initially there was no categorisation of users, (i.e large users versus residential users). Customers have now been categorised and specific persons in the municipality were designated to look after and deal with delegated customers. As such the biggest accounts are allocated to the CFO of Thaba Chweu. The allocation of customers will ensure that they are properly billed and that payments are received without delay.

116. Previously the municipality were involved in several disputes resulting in litigation premised on disputes on accounts. Litigation against the municipality has reduced substantially during the current financial year.

REGULATORY LAG IN THE INCREASE OF TARIFFS BY THE MUNICIPALITY OF TARIFFS

117. The dates for increases allowed for Eskom to increase its tariffs annually versus that of the municipality, furthermore place undue pressure on the fiscus of the municipality.

118. Whereas Eskom increases its rates to municipalities effective 1 April annually, the municipality is by licence and / or NERSA regulation only allowed to increase its corresponding tariff to its customers by 1 July annually. Effectively, the municipality is for three months of the year out of pocket with the amount with which Eskom is permitted to increase its rates. This issue stands to be raised with NERSA.

ON STATUARY GRANTS

119. The municipality received an equitable share grant of R115 054 000.00 from National Government for the financial year ending 30 June 2017. Much of this amount was used to pay the arrears of Eskom and to settle some other creditors.

120. Only a small portion of the equitable share grant is destined for free basic electricity. The remainder of the grant is to be employed by local government to perform other constitutional duties such as the provision of basic infrastructure and services. With Thaba Chweu suffering from a constant cash flow problem, this equitable grant cannot be employed for its constitutional purpose.

MAIN CHALLENGES IDENTIFIED BY COGTA

121. The losses resulting from illegal connections and tampering with electricity supply can only be addressed with the installation of legal connections. To expand the roll out of legal connections, funding is required. The losses resulting from the application of incorrect tariffs to customers have already been addressed as mentioned above.

122. The winter seasonal tariff is to be implemented from June 2018 and may result in an increase in income of close to 100% for the winter months. The tampering with electricity supply at big businesses still requires resolution as much of such institutions possess the expertise and knowhow to bypass the legal supply of electricity. Upon the identification of such instances, formal legal process will be followed.

123. TCLM has about 4 network supply points. For each of these, Eskom charges TCLM a network demand charge. This charge places an unnecessary huge burden on the municipality of TCLM. The ideal would be to reduce the number of points, albeit that the municipality does not have the funds to upgrade certain substations and to integrate others. A pragmatic solution may result from this issue being reported to NERSA.

124. TCLM struggles to comprehend the calculation of the Eskom accounts delivered monthly and to reconcile the arrears. The VAT and interest

compounded also stand to be isolated and considered afresh. Eskom does not provide these details to the municipality for the latter to debate and dispute the accounts.

125. It is furthermore recorded that Eskom had a practice where interest was raised within 15 days from an account being issued, instead of interest only being applied after 30 days from the account. Eskom furthermore applied a rate on overdue balances based on prime plus 5%, which was only reduced recently, to 2.5%. These facts are supported by the media statement issued by the spokesperson of the Premier of Mpumalanga on 1 March 2017. The effect of these interest rate practices is to be considered and where necessary, the interest raised stands to be reduced. A copy of the media statement is enclosed herewith marked annexure **"Q"**.

MEETING 18 JANUARY 2018

126. On 18 January 2018 the Cogta manager responsible for energy services, Mr. Ngwenyama, met with the Municipal Manager, the Chief Financial Officer and the Cooperate Manager of Thaba Chweu to collect documentation and to assess progress on the improvement of the electricity situation in the Municipality. The meeting specifically

considered and focused on revenue received by the municipality from July to December 2017.

127. COGTA is of view that the financial situation at the municipality stabilized, albeit that there is full knowledge that the Eskom arrears and current accounts are not settled in full.

128. From the management reports discussed at the meeting of 18 January 2018:

128.1. it was evident that electricity sales decreased since October 2017. This decrease is ascribed to the implementation of the Eskom planned interruptions;

128.2. it was furthermore recorded that the interest raised by Eskom to the municipality increased to an amount in access of R1.6M per month, whilst the total loss on electricity (billed by Eskom minus income on electricity) stabilized at a figure of about R3.6M per month. The current shortfall on the electricity account is, if interest is excluded, about R2M; and

128.3. it was not possible at the meeting to determine the quantum of penalties raised. If there is an understanding of the penalties and with the penalties ring-fenced on the account

from Eskom, the TCLM position will be even more manageable.

129. The situation of the winter premium debited by Eskom to the municipality, was also discussed:

129.1. the winter premium result in the monthly Eskom bill to Thaba Chweu almost doubling;

129.2. the municipality did not pass this inflated bill to its customers/community this past year;

129.3. the municipality furthermore said that they were not at liberty to implement the winter tariff the past few years as they have not engaged with their users / communities to gain acceptance of such periodic increases and also did not have NERSA approval to charge the tariff;

129.4. the increased bill, inclusive of the winter premiums added about R10M per month to the Thaba Chweu indebtedness during the winter months;

129.5. the municipality informed COGTA that they have applied to NERSA for the new financial year to increase their tariffs to

their customers when the winter premium is implemented by Eskom;

129.6. the cash flow situation of the municipality will therefore improve with about R40M in the next financial year.

130. TCLM has been making payments to Eskom. In December 2017 an amount of approximately R15 million was paid.

SURPLUSSES IN FINANCIALS

131. The Premier required from Provincial Treasury to look for any surpluses that may be allocated as payment to Eskom. There is none available. The money therefore has to come from a cut in expenses, revenue enhancement (realisation) projects, improvement of the collection rate, identification of bad debt and a decision thereon, analysis of direct supplies to customers (information from Eskom), and to raise the levy thereon and to collect same.

CHALLENGES REQUIRING SUPPORT

132. The documents annexed to this report, speak of several challenges. The key challenges are:

132.1. revenue collection and the increase of the revenue base line. The main drive is to eliminate unmetered consumption;

132.2. distribution losses via infrastructure not effectively maintained, the stealing of electricity, illegal connections and the tampering of systems/meters;

132.3. reconciliation of the Eskom accounts, and specifically to determine and isolate interest not due and penalties charged.

133. TCLM suffers from an inability to manage the electricity function because of capacity constraints: -

133.1. there are personnel shortages in respect of meter readers and electricians; and personnel to terminate illegal connections;

133.2. there is an insufficient budget for maintenance and the operation of the network;

133.3. the number of unmetered stands and possibly unmetered users;

133.4. severe tampering and theft of electricity;

133.5. insufficient revenue baseline;

133.6. dilapidation of the infrastructure network and need to upgrade the maximum demand;

133.7. lack of revenue for infrastructure investments with the municipality being 100% dependent on grant funding to maintain and build infrastructure.

134. Large sections of the community in the municipality resist the implementation of meters and they reject electricity control. Councillors must assist with this problem.

135. The tariffs at which the Municipality receives electricity and at which it may sell, requires revision. There is a need to enjoin NERSA to consider the status of municipalities and to at least allow the same benefit as that annually allowed for Eskom. The historic backlog also requires consideration.

136. Eskom's direct supply to Blue Chip clients in the area of the municipality and the refusal of Eskom to make available to the municipality the accounts with such clients, deprive the municipality of vital income to be raised as surcharge to such clients.

137. The unfunded budget of the municipality remains a concern. Eskom represents 70% of the outstanding creditors.

138. The Eskom account requires a breakdown and proper consideration of the following: Penalties, interest and actual supply (current accounts). Eskom is unable to provide the municipality with an age analysis and breakdown and NERSA will have to assist to obtain clarity.

139. Experts are currently rolled out to assist TCLM and other municipalities, and a task team is appointed to co-ordinate actions. These initiatives require more time to show results and to be able to meaningfully report.

140. The repayment plans forced down on the municipalities, are unrealistic as affordability was not considered in the compilation of the acknowledgements of debts. Eskom and the municipality did not at the time consider the income and cash flow statements, nor all the obligations for service delivery and the honouring of all other creditors.

CONCLUSION

141. It appears that the assistance rendered by the provincial efforts have assisted TCLM greatly to improve regularising its relationship with Eskom. The staff complement was improved and service providers to

rectify the database will soon be appointed through provincial treasury's efforts. The service provider should increase the number of billable customers and accuracy of TCLM's billing. Winter tariffs and tariff increases will be implemented. These efforts will increase the revenue stream.

142. Provincial COGTA's efforts have reduced illegal connections and have increased legal connections. A new transformer to reduce penalties is being installed. Additional grants are likely to be made available to TCLM, given the improvements in management. Efforts to reduce distribution loss will continue.

143. The billing of Eskom stands to be assessed with assistance from NERSA and the amount owing must be established with greater clarity. The true extent and meaning of the current account must be established.

144. In the premises, the Court will be asked (to the extent that the parties fail to agree thereto) to extend the interim interdict granted on 28 December 2017 to 13 April 2018.

145. The Premier tenders to report back to Court by 29 March 2018 on further steps taken by provincial government and the success thereof to regularise the relationship between TCLM and Eskom.

DATED at **MBOMBELA** on the 26th day of **JANUARY** 2018

ADENDORFF THERON ATTORNEYS
Tenth Respondent's Attorneys
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West Acres
NELSPRUIT
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Email: carl@adendorffs.com
Ref: **Mr Adendorff**

TO:

THE REGISTRAR OF THE
ABOVE HONOURABLE COURT
MBOMBELA

AND TO:

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Applicants' Attorneys
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c/o SEYMORE DU TOIT & BASSON INC
12 Murray Street
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Ref: **M van der Hoven/VAN1242/0001**

Received copy hereof on this the
____ day of _____ 2018

For: Applicants' Attorneys

AND TO:

NGENO & MTETO ATTORNEYS
Fifth Respondent's Attorneys
(liwalam@ngenomtetoinc.co.za)

AND TO:

MATSANE ATTORNEYS
First Respondent's Attorneys
(matsaneb@msatt.za.net or matsaneinc1@msatt.za.net)

A

Adendorff Theron Inc.

Date: 11 December 2017

Our reference: C00785
Your reference:

To:
MUSA MABILA
SENIOR MANAGER: CUSTOMER SERVICES (ACTING) AND SENIOR MANAGER: MAINTENANCE AND OPERATIONS
MPUMALANGA OPERATING UNIT
ESKOM
Via Email: Musa.Mabila@eskom.co.za

And to:
NGENO & MTETO INC.
PER: LIWALAM JAFTA
C-C50, BROOKLYN OFFICE PARK
488 FEHRSEN STREET
BROOKLYN, PRETORIA
Via Email: liwalam@ngenomtetoinc.co.za

Dear Messrs,

ESKOM'S NOTICE TO DISCONTINUE ELECTRICITY SUPPLY TO THE EMALAHLENI LOCAL MUNICIPALITY

1. On 20 November 2017 a group of applicants launched an application against the Premier, Mpumalanga Province and a number of other respondents in the Mpumalanga Circuit Court under case number 2799/2017. The main relief that the applicants seek is that the Premier intervenes in the Emalahleni Local Municipality ("**ELM**"), given problems experienced by ELM to settle its account with Eskom. You are aware of this application, as Eskom is also a respondent in the matter.

Carl Adendorff (Director / Attorney) B.Proc, LLB & Diploma in Criminal Justice and Forensic Auditing (RAU), Mediator: Court Aligned / Family & Commercial Cell: 082-497-5112 | E-mail: carl@adendorffs.com / Fax to mail: 086 218-4642. **Jacques Theron (Director / Attorney)** LLB (NWU-PUK) Cell: 076 049 7438| E-mail: jacques@adendorffs.com Fax to mail: 086 558-4294. Assisted by **Leenke Schraader** LLB/LLM (NWU-PUK) Cell: 060-986-3402 / Email leenke@adendorffs.com, **Dricus Raath** Cell: 084-226-0551 / Email dricus@adendorffs.com, **Letita Smith** Cell: 082-897-8223 / Email letitia@adendorffs.com and **Maryke Theron (Office Manager)** Cell: 076-281-6027 / Email: maryke@adendorffs.com
Tel: (013) 752-3902 / Fax: (013) 741-1815 / Post Net Suite 196, Private Bag X11326, Nelspruit, 1200.
8 Acacia Crescent, Cnr Figtree Street, West Acres, Nelspruit.
Registration number: 2016/540089/21
Vat Registration Number: 4870276674
Website address: www.nelspruitattorney.co.za

2. We have been instructed to act on behalf of the Premier in this application.

3. From this application it appears that on 8 September 2017 Eskom gave notice that it intended to discontinue electricity supply to ELM. It called for submissions by end of business on 19 October 2017 and stated that a final decision would be published in a notice on 9 November 2017. It also appears that the applicants provided Eskom with submissions on 18 October 2017. We have not yet seen any final decision published by Eskom as it undertook to do.

4. As you know, the Premier has previously engaged with Eskom in an attempt to find a manner for ELM to settle its arrears owing to Eskom. The attempts extend to include other municipalities in the Mpumalanga Province that find themselves in a similar position, including Mbombela and Thaba Chweu.

5. The applicants in the aforesaid matter have now provided us with a copy of your letter to them dated 30 November 2017. From this letter it appears that Eskom intends to again discontinue electricity supply to ELM during December 2017.

6. The threat to discontinue the electricity supply comes at a time when ELM's position is being considered at provincial level in order to normalise its relationship with Eskom. The discontinuation of supply at this stage will have a negative effect on the community served by ELM and is unnecessary in our client's view, given the attention the matter is receiving at provincial level.

7. In the premises we request that you provide us with an urgent undertaking that you will not discontinue the supply to ELM before 31 January 2018. We repeat

Carl Adendorff (Director / Attorney) B.Proc, LLB & Diploma in Criminal Justice and Forensic Auditing (RAU), Mediator: Court Aligned / Family & Commercial Cell: 082-497-5112 | E-mail: carl@adendorffs.com / Fax to mail: 086 218-4642. **Jacques Theron (Director / Attorney)** LLB (NWU-PUK) Cell: 076 049 7438| E-mail: jacques@adendorffs.com Fax to mail: 086 558-4294. Assisted by **Leenke Schraader** LLB/LLM (NWU-PUK) Cell: 060-986-3402 / Email leenke@adendorffs.com, **Dricus Raath** Cell: 084-226-0551 / Email dricus@adendorffs.com, **Letita Smith** Cell: 082-897-8223 / Email letitia@adendorffs.com and **Maryke Theron (Office Manager)** Cell: 076-281-6027 / Email: maryke@adendorffs.com
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this request in respect of all the other municipalities that have recently received discontinuation notices from Eskom, including Mbombela and Thaba Chweu. Our client requests this extension to enable him to take the necessary further steps to normalise ELM, the other municipalities and the relationship between them and Eskom.

Jacques Theron
Adendorff Theron Inc.
(electronically transmitted without signature)

Carl Adendorff (Director / Attorney) B.Proc, LLB & Diploma in Criminal Justice and Forensic Auditing (RAU), Mediator: Court Aligned / Family & Commercial Cell: 082-497-5112 | E-mail: carl@adendorffs.com / Fax to mail: 086 218-4642. Jacques Theron (Director / Attorney) LLB (NWU-PUK) Cell: 076 049 7438| E-mail: jacques@adendorffs.com Fax to mail: 086 558-4294. Assisted by Leenke Schraader LLB/LLM (NWU-PUK) Cell: 060-986-3402 / Email leenke@adendorffs.com, Dricus Raath Cell: 084-226-0551 / Email dricus@adendorffs.com, Letita Smith Cell: 082-897-8223 / Email letitia@adendorffs.com and Maryke Theron (Office Manager) Cell: 076-281-6027 / Email: maryke@adendorffs.com
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Jacques Theron

From:	Jacques Theron <jacques@adendorffs.com>
Sent:	Monday, 2017 December, 11 04:26 PM
To:	'Musa.Mabila@eskom.co.za'
Cc:	'liwalam@ngenomtetoinc.co.za'
Subject:	ESKOM'S NOTICE TO DISCONTINUE ELECTRICITY SUPPLY TO THE EMALAHLENI LOCAL MUNICIPALITY
Attachments:	Urgent Letter to Eskom .pdf

Good afternoon,

Find enclosed our letter for your kind but urgent attention.

Yours faithfully,

Jacques Theron
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"B"

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Before Judge Ranchod
12 December 2017

Case number: 83453/2017

In the matter between:

WILLEM HELM JOHAN COETZEE	First Applicant
SAVE EMALAHLENI ACTION GROUP	Second Applicant
SAMUEL NAPE on behalf of INTERESTED AND AFFECTED PARTIES IN TERMS OF SECTION 38 OF THE CONSTITUTION Third Applicant	

and

ESKOM HOLDINGS SOC LIMITED	First Respondent
EMALAHLENI LOCAL MUNICIPALITY	Second Respondent
THE PREMIER, MPUMALANGA PROVINCE	Third Respondent
THE EXECUTIVE COUNCIL FOR PROVINCE OF MPUMALANGA	Fourth Respondent
THE MEMBER OF THE EXECUTIVE COUNCIL FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, MPUMALANGA	Fifth Respondent
THE MEMBER OF THE EXECUTIVE COUNCIL FOR TREASURY, ECONOMIC DEVELOPMENT AND TOURISM, MPUMALANGA	Sixth Respondent
THE NATIONAL ENERGY REGULATOR	Seventh Respondent
MINISTER OF WATER AND SANITATION	Eighth Respondent
OLIFANTS RIVER FORUM	Ninth Respondent

DRAFT ORDER

1. The parties agree to approach the Deputy Judge President for an expedited hearing of ~~Part A of the application~~ paragraph 3 of the Notice of Motion

2. Pending finalisation of ~~Part A~~ paragraph 3 of the Notice of Motion 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.

12/12/17

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Before Judge Ranchod
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

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA
PRETORIA OFFICE
2018 -01- 05
R.T MADOU
REGISTRAR
GRIFFIER VAN DIE HOË HOF VAN SUID-AFRIKA, GAUTENG AFDELING, PRETORIA

DRAFT ORDER

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

12/12/17

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.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, PRETORIA
PRETORIA
2018
R.T WADOU
REGISTRAR
GRIFFIER VAN DIE HOË HOF VAN SUID-AFRIKA, GAUTENG AFDELING, PRETORIA

COPY

Adendorff Theron Inc.

Date: 19 January 2018

Our reference: C.F. Adendorff / C00785

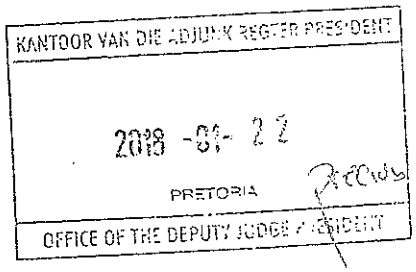
The Honourable Deputy Judge President

Mr Justice Ledwaba

North Gauteng High Court, Pretoria

By Email: PMathunywa@judiciary.org.za

By Fax: (012) 315-7600



Honourable Mr. Justice Ledwaba DJP

COETZEE and Others // ESKOM HOLDINGS SOC LTD and Others (Case no 83453/17)

1. The letter addressed to you by Ngeno & Mteto attorneys, dated 19 December 2017 ("Ngeno & Mteto the letter"), has reference.

2. We act for the Premier of Mpumalanga, the Third Respondent, in the above matter.

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3. In the Ngeno & Mteto letter you are requested to allocate a preferential date for the hearing of argument on both the ***Coetzee*** and ***Resilient Properties*** matters (Case numbers 83453/17 and 83581/17) involving electricity supply to Emalahleni ("**the DJP-Request**").

4. The DJP-Request follows on the hearing in Urgent Court on 12 December 2017. At the Urgent Court -

   4.1. The Premier of Mpumalanga, our Client, through counsel handed up a letter to the Judge in open Court. The letter is dated 11 December 2017. There was no objection against the handing up of the letter and against counsel for the Premier addressing the Court. The letter was therefore properly before Court.

   4.2. The Premier placed on record that he is considering the problems of Municipalities in Mpumalanga at a provincial level with a view to normalise the relationship with Eskom.

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4.3. Premised on the above, the Premier sought an undertaking from Eskom not to discontinue or interrupt the electricity supply to several municipalities until at least 31 January 2018, to allow time for the Premier to consider the challenges and to take the necessary steps to normalise the respective municipalities, and their relationship with Eskom.

4.4. Eskom undertook not to interrupt the supply of electricity to Emalahleni Local Municipality pending the outcome of the hearing on the relief sought in paragraph 3 of the Notice of Motion, dated 7 December 2017 in the ***Coetzee***-matter (and the hearing of Part B in the ***Resilient Properties***-matter). The date for the hearing is to be coordinated by Eskom via a request to the Deputy Judge President.

5. I record that the Premier has not had the courtesy of a reply by Eskom to the letter that was handed up on behalf of the Premier.

6. We respectfully disagree with portion of the contents of the Ngeno & Mteto letter and place the following on record:-

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6.1. Two matters dealing with the electricity supply to Emalahleni were set down in the Urgent Court on 12 December 2017. The learned judge gave an indication of his roll, but was nonetheless willing to entertain the matters.

6.2. The legal representatives for the Applicants in the respective matters (***Coetzee*** and ***Resilient Properties***), and the representatives of Eskom and the Premier of Mpumalanga briefly addressed the Court, where after the matters stood down.

6.3. The parties present subsequently agreed to draft orders to be made orders of Court.

6.4. It is not correct that all the papers are filed and that the ***Coetzee***-matter is ready for hearing, as the Premier will only be able to report on his position after 31 January 2018; and this may include the filing of papers thereafter. It may also be that, depending on his consideration and having regard to his purpose of normalising the relationship between the municipalities in Mpumalanga and Eskom, that the application(s) will become academic.

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7. A date can thus only be allocated for the hearing with the Premier filing papers and the parties supplementing and/or filing their Heads of Argument accordingly. It is our respectful opinion that a date for argument ought not to be allocated at this stage.

8. We, in addition to the above, also wish to bring the following developments to your attention:

8.1. On 27 December 2017, the Honourable Mr Justice Legodi in the High Court in Mbombela, entertained an urgent application concerning the electricity supply to the Thaba Chweu Local Municipality involving the towns of Sabie, Lydenburg and Graskop.

8.2. The parties present in Court referred to the Emahlahleni-matters (***Coetzee*** and ***Resilient Properties***) pending in the Gauteng Division, and the orders made on 12 December 2017. It was also recorded that a further application is pending in the High Court in Middelburg under case number 2799/2017 which seeks to set aside Eskom's decision to interrupt the bulk electricity to Emahlahleni.

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8.3. There is, at this juncture, approximately 8 municipalities in Mpumalanga having a strained relationship with Eskom, for which a solution(s) is to be considered.

8.4. The Hon. Mr. Justice Legodi enquired, obiter, about the transfer to the Mpumalanga Division of the High Court all matters dealing with electricity supply to Municipalities in Mpumalanga and for all those to be heard together as they all apparently deal with the Municipalities' failure to pay Eskom.

8.5. The Hon. Mr. Justice Legodi made an order on 28 December 2017 that allows firstly, for the restoration of the electricity supply to Thaba Chweu Local Municipality and secondly, for process in resolving the payment impasse with Eskom in an instance where the Premier is considering the situation with a view to taking steps to normalise the relationship with Eskom for all Municipalities in Mpumalanga.

8.6. We are, having regard to the developments since 12 December 2017, similarly of the view that it will be in the interests of justice that all Mpumalanga Eskom-matters are to be dealt with by one Court during the same time.

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8.7. We will engage with the other parties that were present in Pretoria on 12 December 2017 to seek their support for a transfer of the matters to the High Court in Mbombela.

9. In the premises, and instead of allocating a preferential date for a hearing of the ***Coetzee*** and ***Resilient Properties*** -matters, we wish to request a transfer of the matters to the High Court in Mbombela to be heard together with the matter currently pending in Middelburg and with the ***Thaba Chweu***-matter already in the High Court in Mbombela.

Yours faithfully,

(Transmitted electronically without signature)

Carl Adendorff

Adendorff Theron Inc.

cc:

Eskom Attorneys: Ngeno & Mteto Attorneys (liwalam@ngenomtetoinc.co.za)

Coetzee's Attorneys: Johan Coetzee Inc (Louis@jcat.co.za)

Resilient Properties' Attorneys: Kokinis Inc (steven@kokinisinc.co.za)

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Van der Merwe & Associates: (legal2@vdmass.co.za; simone@vdmass.co.za; gertvdmerwe747@gnail.com)

Thaba Chweu Local Municipality's Attorneys: Matsane Attorneys (matsaneb@msatt.za.net; matsaneinc1@msatt.za.net);

Emalahleni Local Municipality's Attorneys: Neuhoff Khoza Attorneys (henri@nk.co.za)

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Subject:	Coetzee and Others // Eskom Holdings SOC LTD and Others (Case number 83453/2017)
Attachments:	19 Jan 18 Letter to The DJP.pdf

Honourable Mr. Justice Ledwaba DJP

Attached a letter for your kind attention regarding the above matter.

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Adendorff Theron Inc.

Date: 19 January 2018

Our reference: C.F. Adendorff // C00785
Your reference: Mr Ngeno

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Dear Sir

SABIE CHAMBER OF COMMERCE AND TOURISM & OTHERS / THABA CHWEU LOCAL MUNICIPALITY, ESKOM & OTHERS

1. Thank you for your letter dated 18 January 2018 addressed to the applicants and copied to us. We have seen the applicants' response and record our view that if the applicants and TCLM elect to supplement their affidavits, they should also deal with the effect of the interruptions from 9 October to 27 December 2017.

2. We are presently consulting with various role players in the Premier's efforts to regularise the relationship between Eskom and defaulting municipalities in the Mpumalanga Province. We believe that Eskom's relationship with the

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Mbombela Municipality has been regularised to the extent that there is currently no looming interruption. We will appreciate your confirmation hereof and record that this serves to demonstrate the seriousness with which the Premier is approaching this matter.

3. The many steps that have been taken in the Province and those that the Premier intends to take specifically in relation to TCLM, will be detailed in our report due on 26 January 2018 in terms of the Court Order of His Lordship Mr Justice Legodi of 28 December 2017. We will timeously report on these issues. At this stage we mention that National and Provincial Treasury are assisting. Provincial COGTA is similarly assisting. Following a tender process, Provincial Treasury is about to appoint a service provider to render sustainable financial solution assistance to TCLM. We are confident that Eskom's relationship with TCLM will soon be regularised to the extent that further interruptions will be unnecessary.

4. The Premier's stance remains that while he is taking these steps, there should be no further interruptions. The interruptions affect orderly governance and have no positive influence on the ability of municipalities, including TCLM, to settle their debt. The Premier's attitude is further that Eskom must be paid, but that all interested role players must co-operate to find the necessary solution. Whilst this process is playing out, interruptions serve no rational purpose.

5. As you know, the interim interdict preventing Eskom from interrupting the supply will automatically terminate on 31 January 2018, unless otherwise

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agreed by the parties or ordered by the court upon further application by any interested party.

6. We accordingly request Eskom to agree to an extension of the interim interdict to 31 March 2018. We are hopeful that a further two month period will assist the Premier to take the necessary steps to regularise the relationship in issue. The period since 28 December 2017 has proved to simply be too short to finalise this complex issue. Matters were further complicated by the fact that many of the persons involved were on annual leave and have only recently returned to work.

7. We have also written to His Lordship Mr Justice Ledwaba about two matters affecting the Emalahleni Municipality (Case No: 83453/2017 W H J Coetzee v Eskom and Case No: 83581/2017 Resilient Properties (Pty) Ltd v Eskom). Those matters are currently pending in the High Court, Gauteng North. We requested His Lordship and those parties to agree to the transfer of those matters to the High Court in Mbombela, so that they may be heard simultaneously with this matter, should it ever become necessary.

8. We remain firmly of the view that the Premier's assistance will make it unnecessary for further court action to take place. If our stance turns out to be incorrect for any reason, all the matters affecting municipalities in the Province can then be dealt with simultaneously in the appropriate court, which we suggest is the Mpumalanga Division.

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9. In the circumstances we look forward to your agreement to extent the interim interdict to 31 March 2018.

Yours faithfully,

(Transmitted Electronically without signature)

Carl Adendorff
Adendorff Theron Inc.

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Tel: (013) 752-3902 / Fax: (013) 741-1815 / Post Net Suite 196, Private Bag X11326, Nelspruit, 1200.
8 Acacia Crescent, Cnr Figtree Street, West Acres, Nelspruit.
Registration number: 2016/540089/21
Vat Registration Number: 4870276674
Website address: www.nelspruitattorney.co.za

Carl Adendorff

From: Carl Adendorff <carl@adendorffs.com>
Sent: 19 January 2018 16:03
To: 'tando@ngenomtetoinc.co.za'
Cc: 'legal2@vdmass.co.za'; 'simone@vdmass.co.za'; 'gertvdmerwe747@gmail.com'; 'matsaneb@msatt.za.net'; 'matsaneinc1@msatt.za.net'
Subject: Sabie Chamber of Commerce and Tourism & Others // Thaba Chweu Local Municipality, Eskom & Others
Attachments: 19 Jan 18 Letter to Ngeno & Mteto Inc.pdf

Dear Sirs

Attached a letter for your kind attention

Carl Adendorff
Adendorff Theron Inc.
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N onal

ELECTRICITY

New panel to look into legality of councils repaying Eskom

Municipalities owe Eskom R10.1bn but have objected to the interest charged on their bulk accounts

29 i vember 2017 - 05:54 Khulekani Magubane



Some tough decisions: DA MP Kevin Mileham says municipalities are never going to be in a position to repay Eskom all their debt plus interest and the utility must write off debt that cannot be recovered. Picture: SUPPLIED

It is back to the drawing board for the interministerial task team that was set up to resolve municipalities' historical debt owed to Eskom and electricity reticulation, with a December 15 deadline set to establish a special panel that will look at the legalities of the issues, MPs heard on Tuesday.

The task team comprises the ministers of co-operative governance, finance and public enterprises and the South African Local Government Association (Salga). It is chaired by the co-operative governance minister.

In 2015, the Treasury withheld municipalities' equitable share of the budget in the absence of repayment agreements for their Eskom debt.

Salga declared a dispute and invoked the Constitution, in terms of which municipalities are mandated as the

distribution agents for electricity to residents, as well as the custodians of reticulation infrastructure.

A delegation from the task team, which included Department of Co-operative Governance director-general Tebogo Motlashuping, was on Tuesday sent packing by MPs after failing to come up with adequate responses to their questions about progress made and milestones reached.

Municipalities owe Eskom R10.1bn but have bemoaned the interest charged on their bulk accounts, saying this is an impediment to their making any meaningful dent in their debt. Councils, in turn, are owed R117bn by customers including households and the state.

Motlashuping told a joint meeting of the energy and co-operative governance portfolio committees that the interministerial task team had agreed on establishing the special panel in a bid to address the issues.

The minister, Des van Rooyen, "has consulted with Salga ... and advised that the panel will be established before December 15", he said.

DA MP Kevin Mileham said the composition of the panel should be carefully considered.

"The issue with municipal debt to Eskom is that municipalities are never going to be in a position to repay all of this debt plus interest. The board [of Eskom] needs to take some hard decisions and write off debt that cannot be recovered," he added.

Co-operative governance minister Van Rooyen should also take action in terms of sections 139 and 139 (1) of the Constitution to allow national government intervention as political will was lacking, said the MP.

ANC MP Amos Masondo said: "Some of these matters have been discussed over years and this meeting is not helping us make any progress. We need ministers to come forward as well to tell us where they are on resolving these matters."

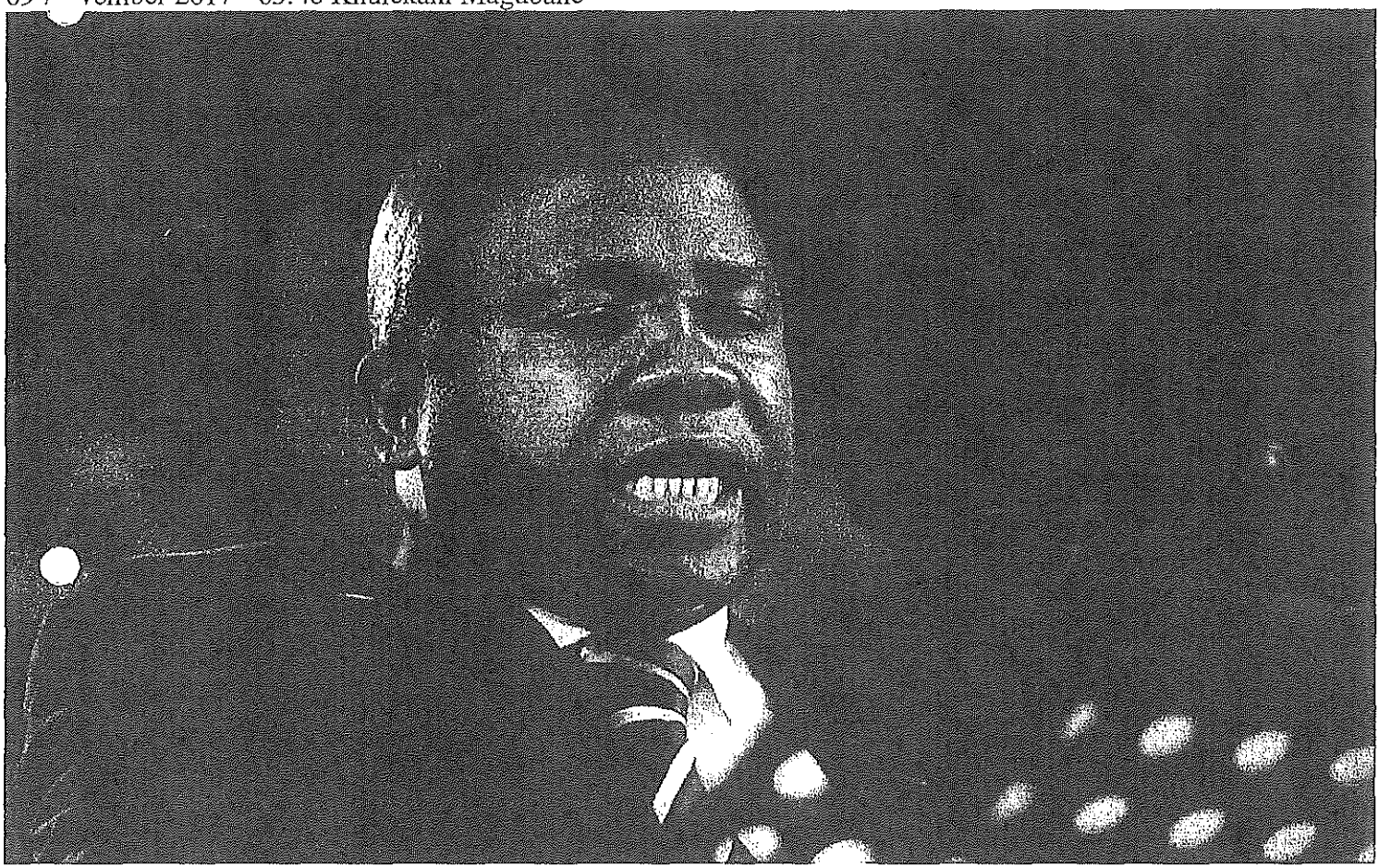
magubanek@businesslive.co.za

ESKOM DEBT

Administration no solution for councils owing Eskom, says Van Rooyen

Challenges are 'structural and systemic', says Co-operative Governance and Traditional Affairs Minister Des Van Rooyen

09 November 2017 - 05:48 Khulekani Magubane



Des van Rooyen. Picture: SOWETAN

Placing municipalities that were battling to pay their debts to Eskom under administration was not a viable solution, Co-operative Governance and Traditional Affairs Minister Des Van Rooyen told Parliament on Wednesday.

Payment agreements would continue to be drafted and updated, he said.

When asked whether councils that continuously defaulted on their debt would be placed under administration, Van Rooyen said the challenges they faced were "structural and systemic" and that placing municipalities under

administration was an overly simplistic view.

"The problems we are dealing with are structural and systemic. The introduction of admin is not the solution.

"The problems go back to financial liability and the use of a land base. Intervening without understanding is not h[illegible]ful," said Van Rooyen.

The Department of Public Enterprises, the Treasury and the Department of Co-operative Governance and Traditional Affairs had formed a team to help tackle the councils' challenges, the minister said.

After introducing a reduction on the interest of debt owed and adjusting the payment deadline, the Department of Co-operative Governance and Traditional Affairs was confident that it had made progress in handling the problem.

"Teams have helped change things to make it easier to pay Eskom, reducing the interest rate charge on overdue accounts.... [Certain] rules need change because they keep councils in eternal debt. The Treasury must assist in determining amounts to establish what can be collected," he said.

Replying to a question from DA MP Kevin Mileham in the National Assembly, the minister said the top 60 defaulting councils would be studied by the intervening departments to assess their ability to honour payment agreements.

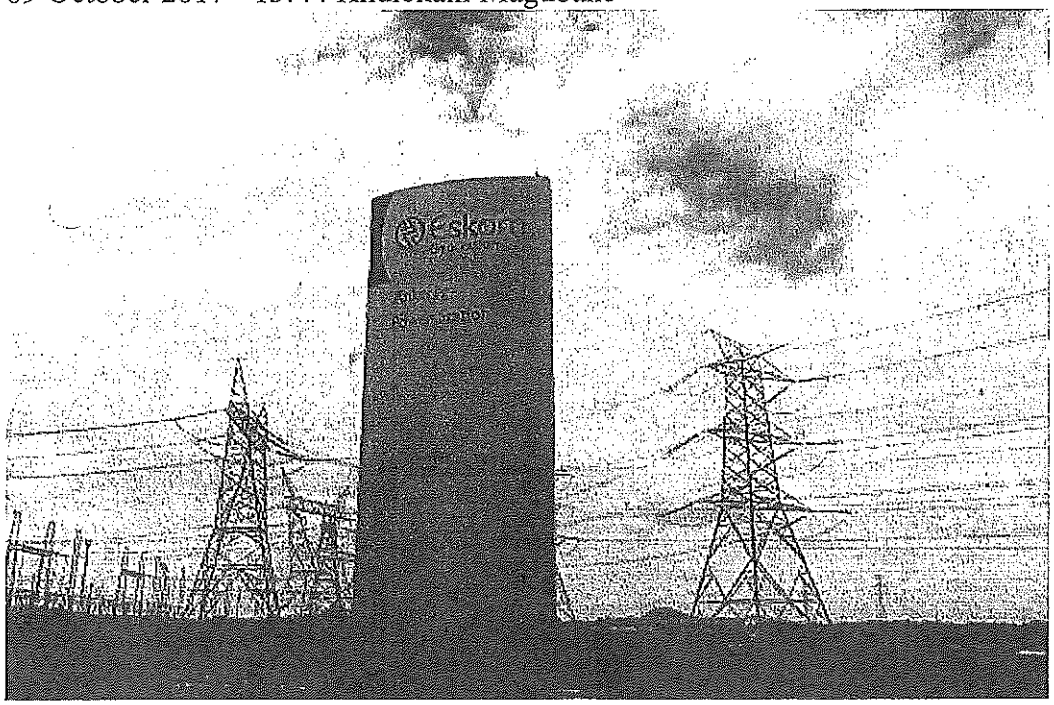
Mileham said some councils were being "throttled" with the threat of power interruptions and others were facing a real risk of a cut-off in December.

He challenged Van Rooyen to agree that the top defaulters would never be able to pay back the debt.

National

Parliament to discuss municipalities' outstanding Eskom bills

09 October 2017 - 15:44 Khulekani Magubane



Storm clouds: Since February, Eskom has presided over a range of illegal and irrational actions. Picture: REUTERS

Parliament will convene an urgent joint meeting of the portfolio committees on co-operative governance and traditional affairs, public enterprise and finance on Tuesday to discuss the crisis between Eskom and indebted municipalities.

Eskom is owed billions in unpaid power bills by local councils, most of which are in financial distress. The power utility has used scheduled electricity cuts as a bargaining chip and as a means to get municipalities to the negotiating table to settle their debts.

DA MP Kevin Mileham said the joint committee meeting was agreed to after he wrote to the co-operative governance and traditional affairs chairman Richard Mdakane in late September.

Mileham said in a statement that the South African Local Government Association (Salga), National Treasury and the affected departments would be present at the meeting, aimed at seeking a long-term solution to the challenge.

The departments of Public Enterprise and Co-operative Governance and Traditional Affairs held meetings with Eskom recently to discuss potential long-term legal reforms to empower councils to provide power to residents.

This is according to a presentation by Salga to Parliament's portfolio committee on energy last Tuesday. The association has brokered debt settlement agreements between indebted councils and the power utility.

Eskom now has payment agreements with some of the top defaulting municipalities in the country, allowing these defaulting councils to avoid scheduled interruptions to power. Councils owe more than R11bn to the utility for electricity.

Mileham blamed the failure of municipal managers and mayors in affected municipality for the crisis, and said that these individuals should be held personally responsible.

"The DA has been engaging Eskom on this matter and has called on the affected councils to immediately ring-fence all income generated by electricity sales for the sole purposes of paying the amounts owed to the power utility as well as for the maintenance of electrical infrastructure," said Mileham.

Opinion / Editorials

EDITORIAL: Towns and cities in trouble

Municipal finance structures must be rethought before they fall into irreparable ruin

28 November 2017 - 05:41



Nomvula Mokonyane. Picture: VELI NHLAPO/SOWETAN

How much more needs to go wrong before we can admit that the municipal government model has never worked for a large portion of municipalities and never will?

Water and Sanitation Minister Nomvula Mokonyane said on Monday she planned to cut bulk-water supplies to at least 30 errant municipalities on December 8. Water debt from municipalities has reached R10.7bn, with 73% of this having been outstanding for longer than 60 days.

Processes to recover the money, including legal action, that started two years ago have not been able to stem the rising tide. Mokonyane now says she will start the cut-offs. She has also put in motion an intergovernmental process with the Treasury to compel it to withhold equitable share grant from municipalities that have not paid their debt.

Taps running dry and sanitation plants that spill into rivers have become unremarkable

It is the same story with electricity, only defaulting on Eskom accounts has been going on for much longer. Municipalities owe the power utility R10bn and Eskom says it has no plans to write off any of this. Cut-offs of offending towns have been happening on and off for the past two years.

In 2015, the Treasury caused an uproar when it told municipalities it would withhold their equitable-share grants until their Eskom debt was paid.

The Treasury's 2017 report on municipal finances painted a startling picture. While water and electricity cut-offs loom, municipalities themselves sit on a R120bn mountain of unpaid consumer bills, most of which they are unable to collect.

The report said the inability to collect debt and raise revenue was threatening municipal sustainability.

This is certainly true, but the problem is not new. The viability of many of the country's 284 municipalities has been in question since the municipal boundaries of the democratic era were drawn up in 2000.

Five years later, the government launched Project Consolidate, the first of many municipal rescue programmes, sending task teams to intervene in almost half of them. The local government department at the time said 42 municipalities were not able to execute even half their functions.

While it would be inaccurate to say no progress has been made in the past 12 years – a good deal of effort has gone into skills-capacity building and the setting of rules around qualifications and appointments for particular jobs — the fact is that fundamental structural problems exist in municipal finances.

Now, as corruption deepens and consumers come under growing pressure — poverty and unemployment have risen again in the past year – and the entities to which municipalities owe large amounts are themselves buckling, municipalities face a perfect storm that could develop into a full-blown crisis.

The South African Local Government Association and the Department of Co-operative Governance and Traditional Affairs said last week there was now concern that municipalities were dipping into infrastructure grant funds to pay salaries. These funds – critical for maintaining water, sanitation and electricity infrastructure at local level — are supposed to be ring-fenced and not spent on operating costs.

In the midst of this we are seeing ever more serious failures of infrastructure. In small towns, taps running dry and sanitation plants that spill directly into rivers have become unremarkable problems. That a large portion of affluent Johannesburg was left without water for several days last week would have been shocking had the inner city and Hillbrow not been deprived of electricity for 10 days a couple of months before.

While the electricity problem originated through theft and damage, the reason the problem took so long to fix was that the substation was 75 years old.

The warning signals are now loud and clear.

Municipal finance structures must be rethought before they fall into irreparable ruin.

Member of the Executive Council
for Finance, Economic Development and Tourism
MPUMALANGA PROVINCE

Building No. 4, No 7 Government Boulevard, Riverside Park, Ext 2, Mbombela, 1200, South Africa, Private Bag X 11215, Mbombela, 1200
Tel: 013 766 4554, Fax: 013 766 4617

Litiko Letetimali, Kutfutfukiswa Kwetemnotfo netekuVakasha | Umnyango weZeemali, weZokuThuthukiswa KoMnotho nezamaVakaljho | Departement van Finansies, Ekonomiese Ontwikkeling en Toerisme

Ms. R Mtshweni, MPL
MEC for Co-operative Governance and Traditional Affairs
Private Bag X 11304
MBOMBELA
1200

Dear Colleague,

BREACH OF DEBT REPAYMENT PLAN AGREEMENT BY MUNICIPALITIES AND ESKOM's INTENTION TO PROCEED WITH PAJA PROCESS

Reference is drawn to the engagements between National Treasury, Provincial Treasury and Municipalities with regard to the failure of municipalities to pay their current Eskom accounts and default on payment agreements.

During these meetings it was agreed that the culture of non-payment for services must stop. Subsequently the effected municipalities did sign payment agreements with Eskom. It was made clear by National Treasury that failure to honour these payment agreements will lead to the implementation of Section 216(2) of the Constitution of the Republic of South Africa by National Treasury. National Treasury is empowered by Section 216(2) of the Constitution to stop the transfer of funds (conditional and non-conditional grants) to any organ of state that commits a serious or persistent breach of the measures prescribed to promote transparency, accountability and the effective financial management of the economy, debt and the public sector.

The MEC's attention is also drawn to the following provincial engagements with Municipalities:

- During the meeting of 11 November 2015, chaired by the Provincial COGTA HOD, a consistent message of honouring all current accounts, adhering to the repayment plans, legitimizing the lapsed repayment plan agreements and engaging Eskom on possible areas for revenue enhancement was emphasized.

- During the PCF Meeting of 12 November 2015, the payment of current accounts and adherence to the repayment plan agreement was supported.

- Following the discussions with municipalities on 12 November 2015 Provincial Treasury motivated successfully, on behalf of defaulting Municipalities, to National Treasury not to implement Sec 216(2) of the Constitution.

BREACH OF DEBT REPAYMENT PLAN AGREEMENT BY MUNICIPALITIES AND ESKOM's INTENTION TO PROCEED WITH PAJA PROCESS

Eskom reported to Provincial Treasury on 23 December 2015 that eight Municipalities (Chief Albert Luthuli, Mkhondo, Govan Mbeki, Emalahleni, Emakhazeni, Nkomazi, Mbombela and Thaba Chweu) did not adhere to the repayment plan agreements, which expected all current accounts with Eskom to be paid on time. Due to this failure Eskom has indicated that they are left with no other option than to proceed with the PAJA process for the bulk accounts and disconnection for the none-bulk accounts.

Due to the urgency of this matter Provincial Treasury requested municipalities to submit a detailed report on the current status of their Eskom accounts as well as the municipalities plans to honour the arrangement with Eskom accounts before 29 December 2015. Municipalities were requested to submit proof of payment in the event that municipality did make payments with regard to outstanding current accounts.

A compulsory meeting was scheduled between defaulting Municipalities (MM and CFO), Provincial Treasury, CoGTA, District Municipalities and Eskom to discuss the municipal reports for 29 December 2015.

Attached please find copies of the correspondence as received from Eskom addressed to the effected municipalities.

I trust that the MEC finds this in order.

Kind Regards,

MR SE KHOLWANE, MPL

MEC FOR FINANCE, ECONOMIC DEVELOPMENT AND TOURISM

DATE: 28/12/2015

MPUMALANGA
THE PLACE OF THE RISING SUN

Eskom

Mr. Theo Van Vuuren
Municipal Manager
eMalahleni Local Municipality
P O Box 3
WITBANK
1035

Date:
23 December 2015

Enquiries:
Chris Lekhuleni
Tel: (013)755 9200

Dear Mr Van Vuuren

BREACH OF DEBT REPAYMENT PLAN AGREEMENT AND ESKOM TO PROCEED WITH PAJA PROCESS

1. We refer to the Acknowledgement of Debt and Repayment Plan Agreement ('the Agreement') entered into by Eskom and eMalahleni Local Municipality ('the Municipality') on 27 May 2015 in terms of which the Municipality acknowledged its indebtedness to Eskom and undertook to pay the debt as set out in the attached Agreement.

2. In accordance with the Agreement, the Municipality failed to pay Eskom all the current accounts timeously and as and when they become due.

3. The Municipality's action is therefore in breach of the Agreement. Refer to clause 6.1 and 6.2 as mentioned below:

   6.1 Should the Municipality default in the payment of any one of the instalments mentioned above, is placed under judicial management or administration, or it enters into a compromise with creditors, the full balance owing on the debt at the relevant time shall become due and payable and

   6.2 Eskom may with due regard to all the relevant legislations and the provisions of the ESA take whatever legal remedies available to it including disconnection of supply of electricity to the Municipality.

4. Consequently the Municipality is advised to take all necessary precautions to ensure the safety of the public and to minimize the impact to its customers.

5. Your attention is also on the following engagements:

   - In the meeting of 11 November 2015, chaired by the Provincial COGTA HOD, a consistent message of honouring all current accounts, adhering to the repayment plans, legitimizing the lapsed repayment plan agreements and engaging Eskom on possible areas for revenue enhancement were emphasized.
   - In the PCF Meeting of 12 November 2015, the payment of current accounts and adherence to the repayment plan agreement was supported

6. The Municipality has not adhered to the repayment plan agreement, which expected all current accounts with Eskom to be paid on time. Due to this failure Eskom is left with no other option than to proceed with the PAJA process for the bulk accounts and disconnection for the none-bulk accounts.

Customer Services
Key Accounts Management - Mpumalanga
28 Ferreira Street Nelspruit 1200
PO Box 579 Nelspruit 1200 SA
Tel +27 13 755 9200 Fax +27 86 539 4374 www.eskom.co.za
Eskom Holdings SOC Limited Reg No 2002/015527/30

7. The total arrear amount of R550 251 600.96 is now due for payment:

Account ID	Type	Total Arrear Debt
8663859096	Bulk	R 514 019 301.20
5888084456	LPU	R 126.96
6964092828	LPU	R 470 999.72
5149466999	LPU	R 796 675.00
5799602312	LPU	R 831 776.93
8663188183	LPU	R 3 254 082.00
9752838787	LPU	R 30 878 639.15
TOTAL		R 550 251 600.96

Eskom is required in terms of the Promotion of Administrative Justice Act No. 3 of 2000, to publicly notify all parties who are likely to be materially or adversely affected by the electricity disconnection and to call for comments from them. We shall then proceed with the public notification of the disconnection to all parties that will be affected anytime from 29 December 2015.

Hoping the current situation will be corrected latest by 29 December 2015.

All of Eskom's rights are reserved.

Yours faithfully

Jonathan Baloi
SENIOR MANAGER CUSTOMER SERVICES (ACTING)

ABSA

Audit Trail

Create Transfer

Wed, Dec 23, 2015 at 02:04:18 PM

Group 27136 - EMALAHELENI LOCAL MUNICIPALITY
Operator 016 - SMITH MONICA ZODWA
Status Finally Approved

	Transaction Status				
	Captured	First Approver	Second Approver	Third Approver	Final Approver
Operator	16	17			18
Approval Level		A			A
Date	2015/12/23	2015/12/23			2015/12/23
Time	12:45:20	13:26:32			13:48:14

Transaction Detail

From Account	503750 EMALAHLENI LOCAL MUNICIPALITY - 0000001360000091		
Description	3 70011833	Frequency	Adhoc
Beneficiary Code	ESKOM4		
Your Account Number/Reference with the Institution	8663188183		
Your Account Name with the Institution	ESKOM		
Date	20151223	Amount	3,254,082.00
Transaction Number	128244	Immediate Interbank Payment	No

To View Payment Confirmation Details click here.

Member of the BARCLAYS Group

ABSA

Audit Trail

Create Transfer

Wed, Dec 23, 2015 at 02:03:22 PM

Group 27136 - EMALAHELENI LOCAL MUNICIPALITY
Operator 016 - SMITH MONICA ZODWA
Status Finally Approved

	Transaction Status				
	Captured	First Approver	Second Approver	Third Approver	Final Approver
Operator	16	17			18
Approval Level		A			A
Date	2015/12/23	2015/12/23			2015/12/23
Time	12:39:10	13:26:01			13:48:01

Transaction Detail

From Account	503750 EMALAHLENI LOCAL MUNICIPALITY - 0000001360000091		
Description	3 70011832	Frequency	Adhoc
Beneficiary Code	24241KRLMD679		
Your Account Number/Reference with the Institution	9752838787		
Your Account Name with the Institution	ESKOM		
Date	20151223	Amount	5,117,339.11
Transaction Number	128242	Immediate Interbank Payment	No

To View Payment Confirmation Details click here.

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Audit Trail

Create Transfer

Wed, Dec 23, 2015 at 02:02:50 PM

Group 27136 - EMALAHELENI LOCAL MUNICIPALITY
Operator 016 - SMITH MONICA ZODWA
Status Finally Approved

	Transaction Status				
	Captured	First Approver	Second Approver	Third Approver	Final Approver
Operator	16	17			18
Approval Level		A			A
Date	2015/12/23	2015/12/23			2015/12/23
Time	12:36:19	13:25:47			13:47:55

Transaction Detail

From Account	503750 EMALAHLENI LOCAL MUNICIPALITY - 0000001360000091		
Description	3 70011830	Frequency	Adhoc
Beneficiary Code	ESKOM1		
Your Account Number/Reference with the Institution	5799602312		
Your Account Name with the Institution	ESKOM		
Date	20151223	Amount	831,776.93
Transaction Number	128241	Immediate Interbank Payment	No

To View Payment Confirmation Details click here.

BARCLAYS

ABSA

Audit Trail

Create Transfer

Wed, Dec 23, 2015 at 02:03:57 PM

Group 27136 - EMALAHELENI LOCAL MUNICIPALITY
Operator 016 - SMITH MONICA ZODWA
Status Finally Approved

	Transaction Status				
	Captured	First Approver	Second Approver	Third Approver	Final Approver
Operator	16	17			18
Approval Level		A			A
Date	2015/12/23	2015/12/23			2015/12/23
Time	12:42:11	13:26:17			13:48:07

Transaction Detail

From Account	503750 EMALAHLENI LOCAL MUNICIPALITY - 0000001360000091		
Description	3 70011831	Frequency	Adhoc
Beneficiary Code	ESKOM6		
Your Account Number/Reference with the Institution	5888084456		
Your Account Name with the Institution	ESKOM		
Date	20151223	Amount	126.96
Transaction Number	128243	Immediate Interbank Payment	No

To View Payment Confirmation Details click here.

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ABSA

Audit Trail

Create Transfer

Wed, Dec 23, 2015 at 02:04:36 PM

Group 27136 - EMALAHELENI LOCAL MUNICIPALITY
Operator 016 - SMITH MONICA ZODWA
Status Finally Approved

					Transaction Status
	Captured	First Approver	Second Approver	Third Approver	Final Approver
Operator	16	17			18
Approval Level		A			A
Date	2015/12/23	2015/12/23			2015/12/23
Time	12:50:15	13:26:52			13:48:19

Transaction Detail

From Account	503750 EMALAHLENI LOCAL MUNICIPALITY - 0000001360000091		
Description	3 700118834	Frequency	Adhoc
Beneficiary Code	ESKOM7		
Your Account Number/Reference with the Institution	5149466999		
Your Account Name with the Institution	ESKOM		
Date	20151223	Amount	796,675.00
Transaction Number	128245	Immediate Interbank Payment	No

To View Payment Confirmation Details click here.

Member of the BARCLAYS Group

Eskom

Mr Noko Seanego
Municipality Manager
Mbombela Local Municipality
PO Box 45
NELSPRUIT
1200

Date:
23 December 2015

Enquiries:
Chris Lekhuleni
Tel +27 13 755 9200

WITHOUT PREJUDICE

PENDING NOTICE OF TERMINATION OF ELECTRICITY SUPPLY – MBOMBELA LOCAL MUNICIPALITY

Dear Mr Seanego

SUPPLY AGREEMENT: BETWEEN ESKOM AND MBOMBELA LOCAL MUNICIPALITY

I refer to the above matter and confirm that the Municipality is in breach of the supply agreement entered into between the Mbombela Local Municipality and Eskom in that your monthly account in respect of Account Numbers:

Account ID	Type	Total Arrear Debt
5330897054	LPU	R 15 221.39
6127824024	LPU	R 86.59
6135654240	Bulk	R 44 111 668.11
6170747848	LPU	R 5 505.75
6348316962	LPU	R 14 333 239.67
7044212965	LPU	R 403 887.99
7094428451	LPU	R 767 045.89
7549343579	LPU	R 81 039.03
7690276690	LPU	R 33 363.96
8211207605	LPU	R 3 830.83
8236033070	LPU	R 2 445 799.09
8359177590	LPU	R 48 678.21
8956454889	LPU	R 376 813.30
9146423865	LPU	R 20 731.18
9169342617	LPU	R 811 132.69
9415205039	LPU	R 76 779.82
9880067718	LPU	R 2 318.70
TOTAL		R 63 557 142.20

I wish to draw your attention to the provisions of the Supply Agreement entered into between Mbombela Local Municipality and Eskom, wherein it is stated that: "Should payment not be made

Distribution Division
Key Accounts Management – Mpumalanga Operating Unit
28 Ferreira Street Nelspruit 1200
PO Box 579 Nelspruit 1200 SA
Tel +27 13 755 9001 Fax +27 86 539 4374 www.eskom.co.za

Eskom Holdings SOC Limited Reg No 2002/015527/30

within a period of 15 (fifteen) days from the billing date, that is, the due date, ESKOM may forthwith discontinue the supply to the consumer without notice or terminate the Agreement or both."

Your attention is further drawn to the provisions of Section 22 (5) of the Electricity Regulation Act No. 4, 2006 which provides that:

(a) "A licensee may not reduce or terminate the supply of electricity to a customer, unless...

(b) the customer has failed to honour, or refuses to enter into, an agreement for the supply of electricity

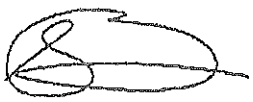
(c) the customer has contravened the payment conditions of that licensee

This letter therefore serves as a notice that the electricity supply in respect of the above mentioned electricity account will be disconnected 14 (fourteen) days from date of receipt of this letter unless the full outstanding amount is settled.

Eskom is required in terms of the Promotion of Administrative Justice Act No. 3 of 2000, to publicly notify all parties who are likely to be materially or adversely affected by the electricity disconnection and to call for comments from them. We shall then proceed with the public notification of the disconnection anytime from 06 January 2016 to all parties that will be affected.

All none redistributing supply points will be disconnected by 06 January 2016 as they are not subjected to the PAJA process, unless fully paid by then.

Yours sincerely



Jonathan Baloi
SENIOR MANAGER CUSTOMER SERVICES (ACTING)

Eskom

Mr Madubula Mabuza
Municipality Manager
P O Box 23
PIET RETIEF
2380

Date:
23 December 2015

Enquiries:
Chris Lekhuleni
Tel +27 13 755 9200

WITHOUT PREJUDICE

PENDING NOTICE OF TERMINATION OF BULK ELECTRICITY SUPPLY – MKHONDO LOCAL MUNICIPALITY

Dear Mr Mabuza

SUPPLY AGREEMENT: BETWEEN ESKOM AND GOVAN MBEKI LOCAL MUNICIPALITY

I refer to the above matter and confirm that the Municipality is in breach of the supply agreement entered into between the Mkhondo Local Municipality and Eskom in that your monthly accounts in respect of Account Numbers and their respective amounts, account 7432616478, R6 189 376.59 and 8730647728, R18 876 166.91. The total arrears for these two accounts is R25 065 543.50

I wish to draw your attention to the provisions of the Supply Agreement entered into between Mkhondo Local Municipality and Eskom, wherein it is stated that: "Should payment not be made within a period of 15 (fifteen) days from the billing date, that is, the due date, ESKOM may forthwith discontinue the supply to the consumer without notice or terminate the Agreement or both."

Your attention is further drawn to the provisions of Section 22 (5) of the Electricity Regulation Act No. 4, 2006 which provides that:

(a) "A licensee may not reduce or terminate the supply of electricity to a customer, unless...

(b) the customer has failed to honour, or refuses to enter into, an agreement for the supply of electricity

(c) the customer has contravened the payment conditions of that licensee

This letter therefore serves as a notice that the electricity supply in respect of the above mentioned electricity account will be disconnected 14 (fourteen) days from date of receipt of this letter unless the full outstanding amount is settled.

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Key Accounts Management – Mpumalanga
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Eskom Holdings SOC Limited Reg No 2002/015527/30

Eskom is required in terms of the Promotion of Administrative Justice Act No. 3 of 2000, to publicly notify all parties who are likely to be materially or adversely affected by the electricity disconnection and to call for comments from them. We shall then proceed with the public notification of the disconnection anytime from 06 January 2016 to all parties that will be affected.

Yours sincerely

Jonathan Baloi
SENIOR MANAGER CUSTOMER SERVICES (ACTING)

Eskom

THABA CHWEU LOCAL MUNICIPALITY

ACKNOWLEDGEMENT OF DEBT AND REPAYMENT PLAN AGREEMENT

1. INTRODUCTION

It is recorded that:

1.1 Eskom Holdings SOC Ltd ("Eskom") is currently supplying Thaba Chweu Local Municipality with bulk electricity in terms of the Electricity Supply Agreement ("ESA"), Reference Number 2/5/12/246, entered into between Eskom and the Municipality on 03 January 1969.

1.2 The Municipality acknowledges that it is truly and lawfully indebted to Eskom for electricity supplied in terms of the ESA referred to in Clause 1.1 above and undertakes to pay Eskom as detailed herein.

1.3 The Municipality also acknowledges that the terms and conditions set out herein below shall regulate and govern the repayment of all and any monies due, owing and payable to Eskom arising out of the Municipality's indebtedness to Eskom.

1.4 This Acknowledgement of Debt and Repayment Agreement ("the Agreement") is a separate agreement from the ESA or any other agreement that is entered into between Eskom and Municipality.

2. PERIOD OF AGREEMENT

This Agreement shall notwithstanding the last signature thereof become effective on 01 June 2015 and shall remain in force until the Municipality has paid Eskom in full the amounts referred to or tabulated in Clause 4 below.

3. DEBT ACKNOWLEDGEMENT

The Municipality acknowledges that as at 27 May 2015 it is truly and lawfully indebted to Eskom in the sum of **R 264 393 483.00 (two hundred and sixty four million, three hundred and ninety three thousand, four hundred and eighty three rand)** including VAT and accumulated interest compounded monthly from 31 December 2014 to 30 April 2015 ("the debt") for electricity supplied to the Municipality.

4. REPAYMENT

4.1 The Municipality hereby undertakes to pay the debt and accumulated interest compounded monthly from due date as follows:

MONTH	AMOUNT	MONTH	AMOUNT	MONTH	AMOUNT
DECEMBER 2014	-	APRIL 2016	R 6 000 000	JUNE 2017	R 6 000 000
MARCH 2015	-	MAY 2016	R 5 000 000	JULY 2017	R 6 500 000
APRIL 2015	-	JUNE 2016	R 5 000 000	AUGUST 2017	R 6 000 000
MAY 2015	-	JULY 2016	R 7 500 000	SEPTEMBER 2017	R 6 000 000
JUNE 2015	R 893 481	AUGUST 2016	R 6 000 000	OCTOBER 2017	R 6 000 000
JULY 2015	R 2 500 000	SEPTEMBER 2016	R 6 000 000	NOVEMBER 2017	R 6 000 000
AUGUST 2015	R 2 500 000	OCTOBER 2016	R 6 000 000	DECEMBER 2017	R 6 000 000
SEPTEMBER 2015	R 2 500 000	NOVEMBER 2016	R 6 000 000	JANUARY 2018	R 6 000 000
OCTOBER 2015	R 2 500 000	DECEMBER 2016	R 8 500 000	FEBRUARY 2018	R 6 000 000
NOVEMBER 2015	R 2 500 000	JANUARY 2017	R 6 000 000	MARCH 2018	R 6 000 000
DECEMBER 2015	R 2 500 000	FEBRUARY 2017	R 6 000 000	APRIL 2018	R 6 000 000
JANUARY 2016	R 7 500 000	MARCH 2017	R 8 500 000	MAY 2018	R 6 000 000
FEBRUARY 2016	R 5 000 000	APRIL 2017	R 6 000 000	JUNE 2018	R 6 000 000
MARCH 2016	R 5 000 000	MAY 2017	R 6 000 000	JULY 2018	R 6 000 000
APRIL 2016	R 6 000 000	JUNE 2017	R 6 000 000	AUGUST 2018	R 19 000 000
NOVEMBER 2014	R 16 000 000	DECEMBER 2017	R 6 000 000		
TOTAL					

4.2 In accordance with the ESA the outstanding amount shall bear interest, compounded monthly from the due date to date of payment, at a rate per annum equal to the prevailing prime rate charged by First National Bank of Southern Africa Limited in South Africa plus 5%.

4.3 It is specifically recorded that the Municipality retains the right to repay the debt in full at any given time during the period contemplated in paragraph 2 above. In the event of such occurrence, the Municipality will only be liable for interest accumulated on the debt up to and until the date of such payment, in full and final settlement.

4.4 A certificate under the signature of a duly authorised employee of Eskom (whose authority as such need not be proved by Eskom) or by any professional practising accountant who is engaged by Eskom setting out the amount due and payable by the Municipality at any time in terms of this Agreement, shall be sufficient and prima facie proof of the Municipality's debt for purpose of any legal proceedings including obtaining of summary or default judgement.

5. CURRENT ACCOUNTS

The Municipality acknowledges that its undertaking herein does not absolve it from any of its obligations in terms of the ESA, including its obligation to pay all the current accounts timeously and as and when they become due and payable in terms of the ESA.

6. DEFAULT

6.1 Should the Municipality default in the payment of any one of the instalments mentioned above, is placed under judicial management or administration, or it enters into a compromise with creditors, the full balance owing on the debt at the relevant time shall become due and payable and

6.2 Eskom may with due regard to all the relevant legislations and the provisions of the ESA take whatever legal remedies available to it including disconnection of supply of electricity to the Municipality].

6.3 The Municipality undertakes to pay on an attorney and client scale, all legal costs and expenses incurred in making demand for, or suing for the recovery of the capital and interest or any portion thereof and the cost of the execution of any judgement and in general all the costs which Eskom may incur in connection herewith.

7. RENUNCIATION OF BENEFITS

The Municipality renounces the benefits of the legal exceptions that there was no cause for the debt and that there was an error in calculations and the Municipality declares itself to be fully acquainted with the meaning, force and effect of such renunciations.

8. GENERAL

8.1 This Agreement constitutes the sole record with respect to the indebtedness of the Municipality to Eskom.

8.2 No addition to or variation or cancellation hereof shall be of any force or effect unless agreed to in writing by Eskom and the Municipality.

8.3 No indulgence which Eskom may grant to the Municipality in respect of the terms of this Agreement shall constitute a waiver or novation of any of the past or future rights of Eskom and Eskom shall not thereby be precluded from exercising any rights against the Municipality which may have arisen in the past or which might arise in the future.

9. WARRANTY OF AUTHORITY

The Municipality hereby warrants that at the time of execution of this Agreement it has obtained all the approvals and/or consents required under any of its empowering legislations and has taken all necessary action to authorize its signatory to bind it in terms of this Agreement.

SIGNED for and ON BEHALF of the Municipality by the signatory below, who warrants that he/she is duly authorised on ....29....May..... 2015.

.....

NAME: Ceeley Mofweng

TITLE: Chief Finance Officer

AS WITNESSES

1. .....2. .....

SIGNED for and ON BEHALF of ESKOM HOLDINGS SOC LTD by the signatory below, who warrants that she/he is duly authorised, on this the 12..day of .....JUNE..... 2015.

.....

NAME: T. Govender

TITLE: Group Executive Transmission

AS WITNESSES

2. .....2. .....

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Eskom

Mr. EK Tshabalala
Municipal Manager
Emakhazeni Local Municipality
P O Box 17
BELFAST
1320

Date:
23 December 2015

Enquiries:
Chris Lekhuleni
Tel: (013)755 9200

Dear Mrs Tshabalala

BREACH OF DEBT REPAYMENT PLAN AGREEMENT AND ESKOM's INTENTION TO PROCEED WITH PAJA PROCESS

1. We refer to the Acknowledgement of Debt and Repayment Plan Agreement ('the Agreement') entered into by Eskom and Emakhazeni Local Municipality ('the Municipality') on 12 June 2015 in terms of which the Municipality acknowledged its indebtedness to Eskom and undertook to pay the debt as set out in the attached Agreement.

2. In accordance with the Agreement, the Municipality failed to pay Eskom all the current accounts timeously and as and when they become due.

3. The Municipality's action is therefore in breach of the Agreement. Refer to clause 6.1 and 6.2 as mentioned below:

   6.1 Should the Municipality default in the payment of any one of the instalments mentioned above, is placed under judicial management or administration, or it enters into a compromise with creditors, the full balance owing on the debt at the relevant time shall become due and payable and

   6.2 Eskom may with due regard to all the relevant legislations and the provisions of the ESA take whatever legal remedies available to it including disconnection of supply of electricity to the Municipality.

4. Consequently the Municipality is advised to take all necessary precautions to ensure the safety of the public and to minimize the impact to its customers.

5. Your attention is also on the following engagements:

   - In the meeting of 11 November 2015, chaired by the Provincial COGTA HOD, a consistent message of honouring all current accounts, adhering to the repayment plans, legitimizing the lapsed repayment plan agreements and engaging Eskom on possible areas for revenue enhancement were emphasized.
   - In the PCF Meeting of 12 November 2015, the payment of current accounts and adherence to the repayment plan agreement was supported
   - As part of the municipality revenue enhancement, the municipality promised to make additional weekly R2m towards the arrears. These weekly R2m's have not been coming forward.

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28 Ferreira Street Nelspruit 1200
PO Box 579 Nelspruit 1200 SA
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Eskom Holdings SOC Limited Reg No 2002/015527/30

6. The Municipality has not adhered to the repayment plan agreement, which expected all current accounts with Eskom to be paid on time. Due to this failure Eskom is left with no other option than to proceed with the PAJA process for the bulk accounts and disconnection for the none-bulk accounts.

7. The total arrear amount of R35 065 759.23 is now due for payment:

Account ID	Type	Total Arrear Debt
5144746485	Bulk	R 7 125 677.92
6759878275	Bulk	R 27 934 953.57
7305885419	LPU	R 5 127.74
TOTAL		R 35 065 759.23

Eskom is required in terms of the Promotion of Administrative Justice Act No. 3 of 2000, to publicly notify all parties who are likely to be materially or adversely affected by the electricity disconnection and to call for comments from them. We shall then proceed with the public notification of the disconnection anytime from 29 December 2015 to all parties that will be affected.

Hoping the current situation will be corrected latest by 29 December 2015.

All of Eskom's rights are reserved.

Yours faithfully

Jonathan Baloi
SENIOR MANAGER CUSTOMER SERVICES (ACTING)

Eskom

Mr. Vusi Mpila
Municipal Manager
Chief Albert Local Municipality
Private Bag X719
CAROLINA
1185

Date:
23 December 2015

Enquiries:
Chris Lekhuleni
Tel: (013)755 9200

Dear Mr Mpila

BREACH OF DEBT REPAYMENT PLAN AGREEMENT AND ESKOM's INTENTION TO PROCEED WITH PAJA PROCESS

1. We refer to the Acknowledgement of Debt and Repayment Plan Agreement ('the Agreement') entered into by Eskom and Chief Albert Local Municipality ('the Municipality') on 22 December 2014 in terms of which the Municipality acknowledged its indebtedness to Eskom and undertook to pay the debt as set out in the attached Agreement.

2. The revised repayment plan submitted by the municipality on 06 November 2015 can't be considered due to the number of accounts still on arrears. There's an expectation that all current accounts with Eskom must be upto date before any revised arrangement can be considered by Eskom.

3. In accordance with the Agreement, the Municipality failed to pay Eskom all the current accounts timeously and as and when they become due.

4. The Municipality's action is therefore in breach of the Agreement. Refer to clause 6.1 and 6.2 as mentioned below:

   6.1 Should the Municipality default in the payment of any one of the instalments mentioned above, is placed under judicial management or administration, or it enters into a compromise with creditors, the full balance owing on the debt at the relevant time shall become due and payable and

   6.2 Eskom may with due regard to all the relevant legislations and the provisions of the ESA take whatever legal remedies available to it including disconnection of supply of electricity to the Municipality.

5. Consequently the Municipality is advised to take all necessary precautions to ensure the safety of the public and to minimize the impact to its customers.

6. Your attention is also on the following engagements:

   - In the meeting of 11 November 2015, chaired by the Provincial COGTA HOD, a consistent message of honouring all current accounts, adhering to the repayment plans, legitimizing the lapsed repayment plan agreements and engaging Eskom on possible areas for revenue enhancement were emphasized.

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Eskom Holdings SOC Limited Reg No 2002/015527/30

- In the PCF Meeting of 12 November 2015, the payment of current accounts and adherence to the repayment plan agreement was supported

7. The Municipality has not adhered to the repayment plan agreement, which expected all current accounts with Eskom to be paid on time. Due to this failure Eskom is left with no other option than to proceed with the PAJA process for the bulk accounts and disconnection for the none-bulk accounts.

8. The total arrear amount of R38 140 948.70 is now due for payment:

Account ID	Type	Total Arrear Debt
5418134776	Bulk	R 1 391 760.82
5888343926	LPU	R 2 875 077.12
7059863303	LPU	R 566 462.36
7390879368	Bulk	R 33 026 793.23
9861679936	Bulk	R 280 855.17
TOTAL		R 38 140 948.70

Eskom is required in terms of the Promotion of Administrative Justice Act No. 3 of 2000, to publicly notify all parties who are likely to be materially or adversely affected by the electricity disconnection and to call for comments from them. We shall then proceed with the public notification of the disconnection anytime from 29 December 2015 to all parties that will be affected.

Hoping the current situation will be corrected latest by 29 December 2015.

All of Eskom's rights are reserved.

Yours faithfully

Jonathan Baloi
SENIOR MANAGER CUSTOMER SERVICES (ACTING)

Eskom

Mr. Mmela Mahlangu
Municipal Manager
Govan Mbeki Local Municipality
Private Bag X1017
SECUNDA
2302

Date:
23 December 2015

Enquiries:
Chris Lekhuleni
Tel +27 13 755 9200

WITHOUT PREJUDICE

PENDING NOTICE OF TERMINATION OF BULK ELECTRICITY SUPPLY – GOVAN MBEKI LOCAL MUNICIPALITY

Dear Mr Mahlangu

SUPPLY AGREEMENT: BETWEEN ESKOM AND GOVAN MBEKI LOCAL MUNICIPALITY

I refer to the above matter and confirm that the Municipality is in breach of the supply agreement entered into between the Govan Mbeki Local Municipality and Eskom in that your monthly account in respect of Account Number and with an amount: 7071770852. The total outstanding amount on this account as at date hereof is **R188 387 914.54**. Of the aforesaid amount, R19m is a short payment on the current account and a R15m short payment on the proposed revised payment arrangement that you have submitted to Eskom.

I wish to draw your attention to the provisions of the Supply Agreement entered into between Govan Mbeki Local Municipality and Eskom, wherein it is stated that: "Should payment not be made within a period of 15 (fifteen) days from the billing date, that is, the due date, ESKOM may forthwith discontinue the supply to the consumer without notice or terminate the Agreement or both."

Your attention is further drawn to the provisions of Section 22 (5) of the Electricity Regulation Act No. 4, 2006 which provides that:

(a) "A licensee may not reduce or terminate the supply of electricity to a customer, unless...

(b) the customer has failed to honour, or refuses to enter into, an agreement for the supply of electricity

(c) the customer has contravened the payment conditions of that licensee

This letter therefore serves as a notice that the electricity supply in respect of the above mentioned electricity account will be subjected to a PAJA process (public notification for intended disconnection of supply) which will be affected from 4 January 2016.

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Eskom Holdings SOC Limited Reg No 2002/015527/30

Eskom is required in terms of the Promotion of Administrative Justice Act No. 3 of 2000, to publicly notify all parties who are likely to be materially or adversely affected by the electricity disconnection and to call for comments from them. We shall then proceed with the public notification of the disconnection anytime from 06 January 2016 to all parties that will be affected.

You are urgently requested to settle the short payment of R19m towards your November 2015 account, and R15m as part of your revised repayment plan submission. On receipt of these two payments, your submission will be submitted for a decision and conclusion of a revised payment plan on the outstanding balance.

We will appreciate to have these payments latest by 29 December 2015.

Yours sincerely

Jonathan Baloi
SENIOR MANAGER CUSTOMER SERVICES (ACTING)

Eskom

Mr Dan Ngwenya
Municipality Manager
Nkomazi Local Municipality
Private Bag X101
MALELANE
1320

Date:
04 December 2015

Enquiries:
Chris Lekhuleni
Tel +27 13 755 9200

WITHOUT PREJUDICE

PENDING NOTICE OF TERMINATION OF BULK ELECTRICITY SUPPLY – NKOMAZI LOCAL MUNICIPALITY

Dear Mr Ngwenya

SUPPLY AGREEMENT: BETWEEN ESKOM AND NKOMAZI LOCAL MUNICIPALITY

I refer to the above matter and confirm that the Municipality is in breach of the supply agreement entered into between the Nkomazi Local Municipality and Eskom in that your monthly accounts are in arrears as follows:

	Account Number	Amount Overdue
1.	5555156183	R1 475 657
2.	5652441724	R4 572 658.22
3.	6609090675	R1 359 385.56
4.	6961710035	R 556 430.67
5.	8326789047	R 209 153.63
6.	9430083917	R 43 282.01
7.	7197410557	R 43 526.75
8.	7338413081	R6 373 428.10
9.	8491794066	R 645 275.41

The total outstanding amount on these accounts as at date hereof is **R15 278 798.15**

I wish to draw your attention to the provisions of the Supply Agreement entered into between Nkomazi Local Municipality and Eskom, wherein it is stated that: "Should payment not be made within a period of 15 (fifteen) days from the billing date, that is, the due date, ESKOM may forthwith discontinue the supply to the consumer without notice or terminate the Agreement or both."

Your attention is further drawn to the provisions of Section 22 (5) of the Electricity Regulation Act No. 4, 2006 which provides that:

(a) "A licensee may not reduce or terminate the supply of electricity to a customer, unless...

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Eskom Holdings SOC Limited Reg No 2002/015527/30

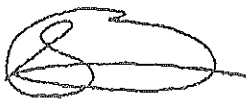
(b) the customer has failed to honour, or refuses to enter into, an agreement for the supply of electricity

(c) the customer has contravened the payment conditions of that licensee

This letter therefore serves as a notice that the electricity supply in respect of the above mentioned electricity account will be disconnected 14 (fourteen) days from date of receipt of this letter unless the full outstanding amount is settled.
All none redistributing supply points on this notice will be disconnected on 18 December 2015 as they are not subjected to PAJA requirements.

Eskom is required in terms of the Promotion of Administrative Justice Act No. 3 of 2000, to publicly notify all parties who are likely to be materially or adversely affected by the electricity disconnection and to call for comments from them. We shall then proceed with the public notification of the disconnection anytime from 18 December 2015 to all parties that will be affected.

Yours sincerely



Jonathan Baloi
SENIOR MANAGER CUSTOMER SERVICES (ACTING)

provincial treasury
MPUMALANGA PROVINCE
REPUBLIC OF SOUTH AFRICA

Building No.4, No. 7 Government Boulevard, Riverside Park, Ext 2, Mbombela, 1200
Private Bag X 11205, Mbombela, 1200

SigcinaMafa SesiFundza | UmNyango weeMali ZesiFunda | Provinsiale Tesourie

Enquiries : Ms B Strauss
Ref :

MEMORANDUM

TO : **MS. NZ NKAMBA**
HEAD: PROVINCIAL TREASURY

FROM : **MR B STRAUSS**
MUNICIPAL FINANCE

SUBJECT : **REQUEST FOR APPROVAL TO OBTAIN PROPOSALS FOR APPOINTMENT OF PROFESSIONAL SERVICE PROVIDERS TO SUPPORT MUNICIPALITIES**

1. PURPOSE

To obtain approval from the Head: Provincial Treasury to request proposals from Service Providers on the Departmental Data Base in the area of Sustainable Financial Solutions (Budgeting and Cash Flow Management) to assist Municipal Finance in supporting municipalities with improvement of cash flows and funded budgets.

2. DISCUSSION

2.1 The Local Government Municipal Systems Act, 2000 (Act 32 of 2000) Chapter 2, Legal Nature and Rights and Duties of Municipalities, establishes the right of municipal councils 'to fund the affairs of the municipality by charging fees for services'. Furthermore, Chapter 8, Municipal Services, Section 75A, provides general power to the municipality to levy and recover fees, charges, and tariffs in respect of any municipal function or service provided;

2.2 The legal framework provides for municipal powers and functions that enable municipalities to charge for services rendered, to collect money due and to levy interest on outstanding amounts. Most Local Municipalities are struggling with financial sustainability due to the approval of unfunded budgets, inability to bill and collect revenue, which put a serious strain on the cash flow.

2.3 The need was identified to appoint service providers to provide support for Dipaleseng, Lekwa, Thaba Chweu, Emalahleni and Govan Mbeki Municipalities to assist them with Sustainable Financial Solutions in order to improve their cash flow positions and assist the municipalities to table funded budgets.

2.4 Provincial Treasury did appoint a panel of Service Providers to be considered for appointment and deployment to municipalities for support. Detailed Terms of Reverence was developed to request the Service Providers to make a formal proposal for implementation of the Terms of Reverence.

3. The Service Providers will be requested to submit a detail proposal to execute the TOR, which must include their methodology to be used to:

3.1 Review and improve Revenue Management with the aim of optimising revenue collection.

3.2 Review and improve effectiveness of controls over expenditure and commitments against available budget.

3.3 Review and improve credibility of budgets.

3.4 Develop a detailed project plan for implementation of all of the above

3.5 Clear indication must be provided on the approach which will be followed to transfer skills to municipal staff.

4. FINANCIAL IMPLICATIONS

The Department did budget an amount of R8 Million for the appointment of Service Providers to be deployed to assist municipalities.

5. RECOMMENDATION

It is recommended that the Head: Provincial Treasury grants approval to request proposals for appointment purposes from Service Providers, on the Departmental Data Base, in the area of Sustainable Financial Solutions

IDP STRAUSS
ACTING COORDINATOR : MUNICIPAL FINANCE
DATE: _____

RECOMMEND / NOT RECOMMENDED

_____
_____
_____

_____
MR. LORE R MANONYANE
PROGRAMME COORDINATOR:
DATE: _____/_____/2017

SUPPORTED/NOT SUPPORTED

_____

MR MA KHOZA
CHIEF FINANCIAL OFFICER
DATE _____/_____/ 2017

APPROVED/NOT APPROVED

_____

MS NZ NKAMBA
HEAD: PROVINCIAL TREASURY
DATE: _____/_____/2017

TERMS OF REVERENCE FOR SUSTAINABLE FINANCIAL SOLUTIONS IN MUNICIPALITIES

1. Back ground:

1.1. The Local Government Municipal Systems Act, 2000 (Act 32 of 2000) Chapter 2, Legal Nature and Rights and Duties of Municipalities, establishes the right of municipal councils 'to fund the affairs of the municipality by charging fees for services'. Chapter 8 of the MFMA allocates responsibilities to municipal officials with regard to revenue management, effective expenditure management and controls and budgets;

1.2. Most Local Municipalities are struggling with financial sustainability due to the lack of effective revenue management, expenditure management cash flow management and budgets that are not funded;

2. REQUIREMENT

2.1. You are requested to prepare a proposal for Provincial Treasury wherein you clearly explain your methodology and plan to support municipalities in the areas as identified in the following Terms of Reverence.

3. SCOPE OF WORK

Terms of Reverence:

3.1. Support needs to be provided for Dipaleseng, Thaba Chweu, Emalahleni, Lekwa and Govan Mbeki Municipalities in the following areas:

3.1.1. Review and improve Revenue Management with the aim of optimising revenue collection.
3.1.2. Review and improve effectiveness of controls over expenditure and commitments against available budget.
3.1.3. Review and improve credibility of budgets.
3.1.4. Develop detail project plan for implementation of all of the above (par. 3.1.1 to 3.1.3).

4. You are requested to submit a detailed proposal to execute the TOR and must include:

4.1. The methodology to be used during execution of this project
4.2. Develop the detail plan with costed activities and timeframes to implement the Terms of Reverence as identified in paragraph 3
4.3. Clear indication must be provided on the approach witch will be followed to transfer skills to municipal staff.
4.4. Your detailed proposal should be submitted no later than 12H00 on 30 November 2017 to the Provincial Treasury.

5. COMMUNICATION AND REPORTING

5.1. The successful bidders will report to the Programme Coordinator: Municipal Finance on assignments in accordance with the terms and conditions documented in service level agreements, letters of engagement or contracts;

5.2. Progress reports need to be submitted on a monthly basis in line with the detailed project plan.

6. CONDITIONS

6.1. Proposals submitted late will not be accepted / considered.
6.2. Quotations needs to be submitted per Municipality
6.3. A proposal that does not meet the requirements as set out on 4 above, shall be deemed non-responsive and as a result, will not be considered for appointment.
6.4. Disbursements must be quoted as a percentage of the total price quoted per municipality for the execution of the service.
6.5. The price quoted for the execution of the required service should be all inclusive. In addition, those service-providers that are not registered for the VAT with the South African Revenue Service (SARS) are advised not to charge for the Value Added Tax (VAT)
6.6. Any successful bidder will be required to enter into a service-level agreement with the Mpumalanga Provincial Treasury
6.7. A proposal that scores less than 60 points out of the 100 points which is allocated for the functionality will be regarded as non-responsive and disqualified automatically.
6.8. The Mpumalanga Provincial Treasury reserves the right to appoint more than one service provider.

7. EVALUATION CRITERIA

7.1. The 80/20 preference point system will apply.
7.2. The evaluation process requires qualifying proposals to be subjected to compliance to functionality, weighing 100 maximum points. As a condition, any proposal that receives a score of less than 60 points out of the maximum 100 points allocated for functionality will be deemed non-responsive and disqualified.
7.3. The maximum points allocated for functionality which is 100, will be broken down to cater for the areas as indicated below:

Functionality item	Sub-item Weighting	Item Weighting
Technical ability		
3.1. Review and improve Revenue Management with the aim of optimising revenue collection	30	**100**
3.2. Review and improve effectiveness of controls over expenditure and commitments against available budget	30	
3.3. Review and improve credibility on budget	30	
3.4. Project Plan	10	

8. DURATION OF CONTRACT

8.1. The successful service-providers will be required to complete the assignment by no later than 20 February 2018

9. CONTACT PERSON FOR TECHNICAL ENQUIRIES

Please direct any enquiries in relation to these specifications/Terms of Reference (TORs) to the following person/s:

Mr. Basie Strauss
(013) 766 8718
082 854 2497
bstrauss@mpg.gov.za

provincial treasury
MPUMALANGA PROVINCE
REPUBLIC OF SOUTH AFRICA

Building No.4, No. 7 Government Boulevard, Riverside Park, Ext 2, Mbombela, 1200
Private Bag X 11205, Mbombela, 1200

SigcinaMafa SesiFundza | UmNyango weeMali ZesiFunda | Provinsiale Tesourie

Enquiries : Ms B Strauss
Ref :

MEMORANDUM

TO : MS. NZ NKAMBA
HEAD: PROVINCIAL TREASURY

FROM : MR B STRAUSS
MUNICIPAL FINANCE

SUBJECT: APPOINTMENT OF PANEL OF PROFESSIONAL SERVICE PROVIDERS TO SUPPORT MUNICIPALITIES

1. PURPOSE

To obtain approval from the Head: Provincial Treasury to advertise a tender with the purpose to appoint a panel of Professional Service Providers to assist Municipal Finance in supporting municipalities with improvement of Financial Management.

2. DISCUSSION

The Provincial Treasury requires from time to time, external assistance to complement its current capacity in order to fulfil its obligations in terms of the Municipal Finance Management Act, 2003. Most of the assistance is required at short notice and it is therefore the intention of the Provincial Treasury to compile a list of experienced and competent service providers in the various fields of Municipal Finance. The successful service providers will report to the General Manager, Municipal Finance on assignments in supporting and assisting municipalities.

The objectives of the assignments are to provide;

- Sustainable solution for municipalities in the following areas;
- Improvement of financial management
- Improvement in financial controls
- Improvement with Contract Management
- Improvement with Project Management
- System controls in terms of the SCM and
- Improvement with Asset Management and compliance to GRAP 17
- Train municipal staff in discharging their responsibilities through improved processes in specific areas.

A copy of the specifications is attached for ease of reference.

3. FINANCIAL IMPLICATIONS

An amount of R6 810 000,00 has been allocated to Municipal Finance Unit. It must be indicated that the R6 810 000,00 might only be sufficient to cover 4 of the eight municipalities.

4. RECOMMENDATION

It is recommended that the Head: Provincial Treasury grants approval to advertise a tender with the purpose to appoint a panel of Professional Service Providers to assist Municipal Finance in supporting municipalities with improvement of Financial Management.

IDP STRAUSS
DIRECTOR: MUNICIPAL FINANCE
DATE: 4/07/2017

RECOMMEND / NOT RECOMMENDED

Mr. Lore R Manonyane
Programme Coordinator:
Date: 04 /07 /2017

SUPPORTED/NOT SUPPORTED

Supported and funds are available

MR MA KHOZA
CHIEF FINANCIAL OFFICER
DATE 04/07/2017

APPROVED/NOT APPROVED

MS NZ NKAMBA
HEAD: PROVINCIAL TREASURY
DATE: 04/07/2017

: THREE YEARS

provincial treasury
MPUMALANGA PROVINCE
REPUBLIC OF SOUTH AFRICA

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Sigcawu Wafa Seti Funda | UmNyango weeMali Zeti Funda | Provincial Treasury

Enquiries : Mr. NJ Mkhabela, Ext 4235
Ref : MPT 5/2/2/1

082 691 7399

NO	SERVICE OR GOODS	BID NUMBER
2	APPOINTMENT OF A PANEL OF PROFESSIONAL SERVICE PROVIDERS TO SUPPORT MUNICIPALITIES FOR A PERIOD OF THREE YEARS	TREA/009/17/MP

APPOINTMENT OF A PANEL OF PROFESSIONAL SERVICE PROVIDERS TO SUPPORT MUNICIPALITIES FOR A PERIOD OF THREE YEARS

<table>
<tr><th>NO</th><th>BID NAME</th><th>DISCUSSIONS</th><th>RESOLUTIONS</th></tr>
<tr><td>2</td><td>TREA/009/17/MP: Appointment of a panel of professional service providers to support municipalities for a period of three years</td><td>Only 35 bids met the minimum requirements and the process of categorising the services of each bid was guided by the scope of work as per the specification. These are considered the main areas of focus and are not intended to be exhaustive, as the mandate of Municipal Finance per the legislation may include other aspects that need to be satisfied.

<u>THE FOLLOWING ARE CATEGORIES OF BIDDERS IN ACCORDANCE WITH THE SCOPE OF WORK AS PER THE SPECIFICATION:</u>

Financial Management (VAT, Internal Control Enhancement Financial Reporting and Getting the Basics Right)
<table>
<tr><th>No.</th><th>Name of Bidder</th></tr>
<tr><td>1.</td><td>Samala Consulting (Pty) Ltd</td></tr>
<tr><td>2.</td><td>Morar Incorporated</td></tr>
<tr><td>3.</td><td>Green Horizon Consulting</td></tr>
<tr><td>4.</td><td>Shumba Incorporated</td></tr>
<tr><td>5.</td><td>Meodi Consortium</td></tr>
<tr><td>6.</td><td>Kenlim Consultants</td></tr>
<tr><td>7.</td><td>PriceWaterhouseCoopers Inc</td></tr>
<tr><td>8.</td><td>Cool Ideas 1016 Pty Ltd</td></tr>
<tr><td>9.</td><td>Grant Thornton PS Advisory</td></tr>
<tr><td>10.</td><td>Erifin Financial Management</td></tr>
<tr><td>11.</td><td>Altimax (CA) SA</td></tr>
<tr><td>12.</td><td>Akhile Management Consulting</td></tr>
<tr><td>13.</td><td>Andivert (Pty) Ltd</td></tr>
<tr><td>14.</td><td>Harvest (CA) SA</td></tr>
<tr><td>15.</td><td>Renaissance (CA) SA</td></tr>
<tr><td>16.</td><td>Pooven Chetty & Associates t/a Umnotho Consulting</td></tr>
<tr><td>17.</td><td>R Kalidass and Associates</td></tr>
</table>
</td><td>The Bid Adjudication Committee recommended the proposal by the Bid Evaluation Committee for the panel of specialists to assist Municipalities. Engineers</td></tr>
</table>

Sustainable Financial Solutions (Budgeting and Cash Flow Management)

No.	Name of Bidder
1.	PriceWaterhouseCoopers Inc
2.	Grant Thornton PS Advisory
3.	Erifin Financial Management
4.	Altimax (CA) SA
5.	Akhile Management Consulting
6.	R Kalidass and Associates

Project Management

No.	Name of Bidder
1.	Botsang and Associates
2.	Fachs Business Consulting
3.	Shumba Incorporated
4.	Sekhukhune and Associates
5.	Matt Macdonald Africa Pty Ltd
6.	PricewaterHouseCoppers Inc
7.	RNT Surveys
8.	Grant Thornton PS Advisory
9.	Phunga Consulting Engineers
10.	Talani Quantity Surveyors
11.	Andivert (Pty) Ltd
12.	Kwenati Solutions Pty Ltd
13.	115 Electrical Solutions Pty Ltd
14.	Tirisano Consulting Engineers
15.	Tsholetso Projects cc
16.	Siroccon International
17.	OS Holdings Pty Ltd
18.	Mafahleni Engineering and Projects
29.	Open Water Advanced Risk Solutions
20.	Klosalo Civil Engineers

Supply Chain Management and Asset Management

No.	Name of Bidder
1.	Morar Incorporated (Assets Management and SCM)
2.	Shumba Incorporated (Assets Management and SCM)
3.	Meodi Consortium (Assets Management and SCM)
4.	Tat I-Chain Technologies (Assets Management)
5.	Kenlim Consultants (Assets Management)
6.	PriceWaterhouseCoopers Inc (Assets Management and SCM)

7.	Grant Thornton PS Advisory (Assets Management and SCM)
8.	EOH Mthombo Pty Ltd (Assets Management)
9.	Erifin Financial Management (Assets Management and SCM)
10.	Akhile Management Consulting (Assets Management and SCM)
11.	Andivert (Pty) Ltd (Assets Management and SCM)
12.	Harvest (CA) SA (Assets Management and SCM)
13.	Renaissance (CA) SA (Assets Management and SCM)
14.	OS Holdings Pty Ltd (Assets Management)
15.	R Kalidass and Associates (Assets Management)

Contract Management

1.	Shumba Incorporated
2.	PriceWaterhouseCoopers Inc
3.	Grant Thornton PS Advisory
4.	Altimax (CA) SA
5.	OS Holdings Pty Ltd

Training

No.	Name of Bidder
1.	Fachs Business Consulting
2.	Meodi Consortium
3.	PriceWaterhouseCoopers Inc
4.	Cool Ideas 1016 Pty Ltd
5.	Grant Thornton PS Advisory
6.	Erifin Financial Management
7.	Renaissance (CA) SA
8.	Altimax (CA) SA

MR. NJ MKHABELA
SECRETARIAT
DATE: _____

MS. MJF BEZUIDENHOUT
CHAIRPERSON
DATE: _____

provincial treasury
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Enquiries :
Ref :

REPORT ON MUNICIPALITIES WHO FAIL TO HONOR ESKOM CURRENT ACCOUNTS AND DEFAULTED ON PAYMENT ARRANGEMENTS FOR ARREAR DEBT.

1. PURPOSE

To provide a progress report to the Head: Provincial Treasury on the status of current and arrear Eskom debt for the period ending

2. LEGISLATIVE CONTEXT AND BACKGROUND

Section 44 of the Municipal Finance Management Act No. 56 of 2003 (MFMA) obligates the Provincial Treasury to mediate if a financial dispute arises between organs of state and find remedies to resolve such disputes. This provision
enhances the spirit and principles of co-operative governance as entrenched in Chapter 3 of the Constitution of the Republic of South Africa, act 108 of 1996.

Section 41 of the MFMA requires the Provincial Treasury to monitor the pricing structure of Organs of state for the supply of electricity, water or any other bulk resources to municipalities and municipal entities and payments made for such bulk resources.

Each organ of state (Eskom and Water Boards) providing such bulk resources to a municipality must within 15 days after the end of each month furnish the Provincial Treasury with a written statement setting out, for each municipality in that province for providing municipal services on behalf of such municipalities:

1. the amount to be paid by the municipality or municipal entity for such bulk resources for that month, and for the financial year up to the end of that month;
2. the arrears owing and the age profile of such arrears; and
3. any actions taken by that organ of state to recover arrears.

It is within this legislative context that the Provincial Treasury has convened a task team comprising all stakeholders to monitor the payment of bulk purchases.

3. DISCUSSION

It has been noted with concern that to date municipalities in Mpumalanga Province owe Eskom 2.6 billion which has increased by R billion when compared to the previous financial year, for the same period under review.

The Provincial Treasury as part of its oversight role over local government convened a Provincial Task Team meeting on the 26th of July 2017 with all affected municipalities who are in arrears with Eskom at Gert Sibande District Municipality Agriculture boardroom. The meeting was attended by Eskom management, Municipal Managers, Chief Financial Officers and Provincial Treasury officials.

The following is the status of each municipality's debt, challenges that they are experiencing and the proposed remedial action proposed to remedy the situation:

1. **City of Mbombela**

Amount Owing: R75million

Challenges at the Municipality:

- Outstanding amounts accumulating interest 14 days after the due date which is not aligned to the 30 days payment period for municipalities
- Dispute with Eskom on the outstanding balance. Eskom 's records shows an arrear of R75milion and the Municipality's books shows an amount of R74million
- Municipality having cash flow challenges and anticipates this situation to prevail for the next 6 months

Remedial Action:

- Auditing of all electricity accounts within the municipality
- Revived the revenue improvement steering committee
- Identifying unpaid conventional meters and low usage prepaid meters
- Following up on all exception reports from billing to ensure accurate billing exists and any malfunctioning meters are repaired
- Revenue protection unit to be introduced to collect and to identify illegal connections
- To consolidate small Eskom accounts, improve payments, even with the introduction of the debit orders

2. **Lekwa Local Municipality**

Amount in arrear: R18million

Challenges at the Municipality:

- High distribution losses, 32% average 2016/17 financial year.
- Failure to settle monthly Eskom invoices in full
- Failure to comply to the High Court order
- Ageing infrastructure
- Over commitments resulting in operating expenditure exceeding revenue.
- Non-participation by Management in the Provincial Debt committee
- Failure to adhere to the Eskom payment arrangement.
- Tariffs which are not cost reflective.

Remedial Action

- Adherence to Eskom Repayment plan
- Management meeting with MFMA Coordinator and Accountant General on Court Order payment arrangement
- Participation by Municipality to the Provincial Debt Committee
- Participation of MPT officials in the Municipal revenue management committee

- Rolling out of Vodacom Smart meters and verification of bulk meters functionality
- MPT to assist with tariff modelling

3. **Govan Mbeki Local Municipality**

Amount in arrear: R421 million

Challenges

- High distribution losses and illegal connections in both water and electricity;
- Very low debt collection rates;
- Non-functional electricity and water meters;
- Ineffective billing process; and
- Failure to adhere to the Eskom payment arrangement

Remedial Action

- Installation of bulk meters to determine the consumption per area and can provide focused attention on areas with high distribution losses
- Installation of smart meters to industrial and household consumers
- Assistance with the cost reflective tariffs, as the municipality believes their electricity tariffs are not cost reflective
- MPT, ESKOM and Municipality to engage NERSA to bridge the tariffs gap.
- Implementation of cost containment measures
- Review of the revenue organisational structure to ensure collection.
- Revenue by-law enforcement to eliminate illegal electricity and water connections.

4. **Msukaligwa Local Municipality**

Amount Owing: R119 million

Challenges at the Municipality:

- Unsigned Eskom payment arrangement
- Low debt collection rates
- High vacancy rate within the Revenue section which inhibits effective revenue management processes.

Remedial Action:

- Sign the Eskom payment arrangement and implement
- Sealed contract with I4PT for installation of smart meters from 1 July 2017
- Review and implementation of the Revenue Enhancement Strategy with targets and monthly monitoring by Finance Portfolio Committee and quarterly by the council
- Filling the posts of the Manager Revenue Management, Meter Readers, Manager Electricity, Manager Water and Manager Sanitation
- In a process of interviewing Project Technicians for Electricity and Water on the 11 and 12 July 2017

5. **Mkhondo Local Municipality**

Amount Owing: R52 million

Challenges at the Municipality:

- Defaulting on the Eskom repayment plans approved by Council twice from February 2017
- High distribution losses, not billing all the units received from Eskom and no effective metering process to identify leakages
- Inadequate controls in the billing system, as too high and low electricity consumptions are not being followed and rectified
- Revenue management committees as recommended by Provincial Treasury not functional to deliberate on revenue challenges and seek appropriate way to improve billing and debt collection
- Underutilisation of the smart meters installed, as not much tangible results have been realised.
- Utilized the MIG for operational expenses which may lead to a reduction in MIG allocation

Remedial Action:

- Must endeavor to honor the Eskom Payment arrangement
- Install bulk meters, smart meters and ensure bulk meters on both electricity and water are functional
- Resuscitate the revenue management committees and hold the owners of the trading services accountable, like the Electricity, Water, Town planning and Refuse removal managers accountable for their respective revenue management
- Capacitate the revenue management function so that they execute the billing processing, and credit control effectively
- MFMA coordinator to escalate the violation of the Eskom arrangement by the Municipality to the Provincial Executive Committee for assistance in adherence.
- Smart meters intervention with Vodacom, already at advance stage
- Reviving Hydro-power station initiative with the PPP soon to be finalized with Inovasure which will have great spinoffs on revenue and offering alternative power generation solution to the municipality.

6. **Dipaleseng Local Municipality**

Amount Owing: R21million

Challenges at the Municipality:

- Increased expenditure not backed by the correspondent increase in actual revenue
- Municipality under the PAJA list
- Revenue enhancement committees not operational
- Meter tempering and illegal connections
- High distribution losses

Remedial Action:

- Revenue enhancement meeting be called with the Acting MM before the 18 August 2017 as to understand the current issues that caused the total deterioration of payments to ESKOM.

- That small Eskom accounts for R1800.00 or less than R100,000 be settled to show commitment and devise concrete plans to settle the big Eskom accounts
- The Municipality to draft a realistic cash flow plan on how to pay ESKOM and submit the plan to MPT before such payment arrangement plan is submitted to Eskom
- Municipality must agree on a payment plan with Eskom which must be formalised as no such plan currently exists
- Must commit to settle the current Eskom accounts.
- That a daily cash flow system be introduced. That a portion of the cash flow be set aside for repayment of the Eskom arrears as well as the current account.
- Only opening accounts for the owners of the properties, who will manage their tenants

7. **Emalahleni Local Municipality**

Amount Owing: R757million

Challenges

- High distribution losses, because of malfunctioning bulk and retail meters
- Very low debt collection rates averaging 59% of the billed amounts.
- Extremely high early winter consumption, which is not reflected in the billed amounts for the period
- Increase in illegal connections and vandalism of sub-stations and transformers.
- Debt book increasing and now standing at R1.1billion.
- Illegal re-connections.
- Inability to meet the existing Eskom payment arrangement due to inadequate cash flow
- Municipality, because of the PAJA process is struggling with vandalism of Substations and meters that is damaged violent protests.

Remedial Action:

- Expedite the installation of the smart meters through Vodacom contract
- Focus on the high-volume users like businesses and later to the households
- Convene a meeting with Eskom including the Executive Mayor and arrange a realistic payment arrangement
- Reprioritize the immediate focus area on Vodacom smart metering exercise and meter validation to industries, mines and lastly households
- Strict application of the credit control policy to defaulters including attachment of properties to recover outstanding debts
- Load shedding
- Selling of stands, expecting to realize around R220million

8. **Thaba Chweu Local Municipality**

Amount Owing: R384million

Challenges at the Municipality:

- High distribution losses, due to high illegal connections and settlements
- Very low collection rates
- Failure to implement PT developed revenue enhancement plan on numerous occasions
- Vodacom contract was entered in May 2017 for assessment of the meters and installation of smart meters to the municipality -No action thus far (up to July 2017)

Remedial action:

- Appointment of the By-law officers to police the illegal connections
- Installation of prepaid electricity, with about 15000 households as target
- Reconfiguration of MVA transformers to limit excess NMD usage
- Revenue enhancement initiatives (i.e. Top 100 debtors, debt compromise)
- Debt recovery mechanism with 70/30 prepaid electricity sale and debt servicing
- Continuous removal of the illegal household connections.

General observations during engagement with affected municipalities

I. The municipal budgets need to be based on the actual cash collection as revenue is billed, whilst actual expenditure is being incurred.

II. The MFMA stipulates that the municipality must settle their accounts within 30 days, however this do not also apply to the consumers, creating a cash flow gap.

Most municipalities table A7's (cash flow projections) as per audited outcomes and current year projections over the MTREF reflects the inability of municipalities to meet the current operational costs, and the holistic payment of creditors.

Provincial Treasury will review the payment plans before it is submitted to Eskom for consideration.

Provincial Treasury will assess the affordability and sustainability of the implementation plans before they are signed off.

III. Tariff increase guidelines from National Electricity Regulator of South Africa (NERSA) which do not reflect the prevailing inflation, leading to revenue from electricity not being adequate to cater for other operational costs like compensation of employees. In this view a workshop between NERSA and ESKOM, Provincial Treasury, The South African Local Government Association, COGTA and Municipalities should be convened to address these disparities.

IV. Trading losses must be discussed and how to improve on distribution losses and electricity tariff alignment over a five year period (phasing in) as well as taking cognizance of low increase imposed by NERSA (2017-18 -1,88% whilst salaries and other expenditure is equal or higher than CPI).

V. Maximum demand penalties charged to municipalities must be discussed and the necessary changes be effected. This is depriving communities of much needed revenue towards service delivery. In most instances these penalties, interest and other charges are not recovered in the budget and are not part of the initial; budgeted cash flows, which results in over expenditure.

4. ORGANISATIONAL AND HUMAN RESOURCE IMPLICATIONS

Officials from Provincial Treasury, COGTA, SALGA, Eskom and NERSA will support municipalities to develop realistic and affordable payment arrangements

5. FINANCIAL IMPLICATIONS

None.

6. COMMUNICATION IMPLICATIONS

Progress reports will be presented to existing fora in the Province.

7. OTHER DEPARTMENTS/BODIES CONSULTED

All stakeholders in local government have been consulted

8. RECOMMENDATIONS

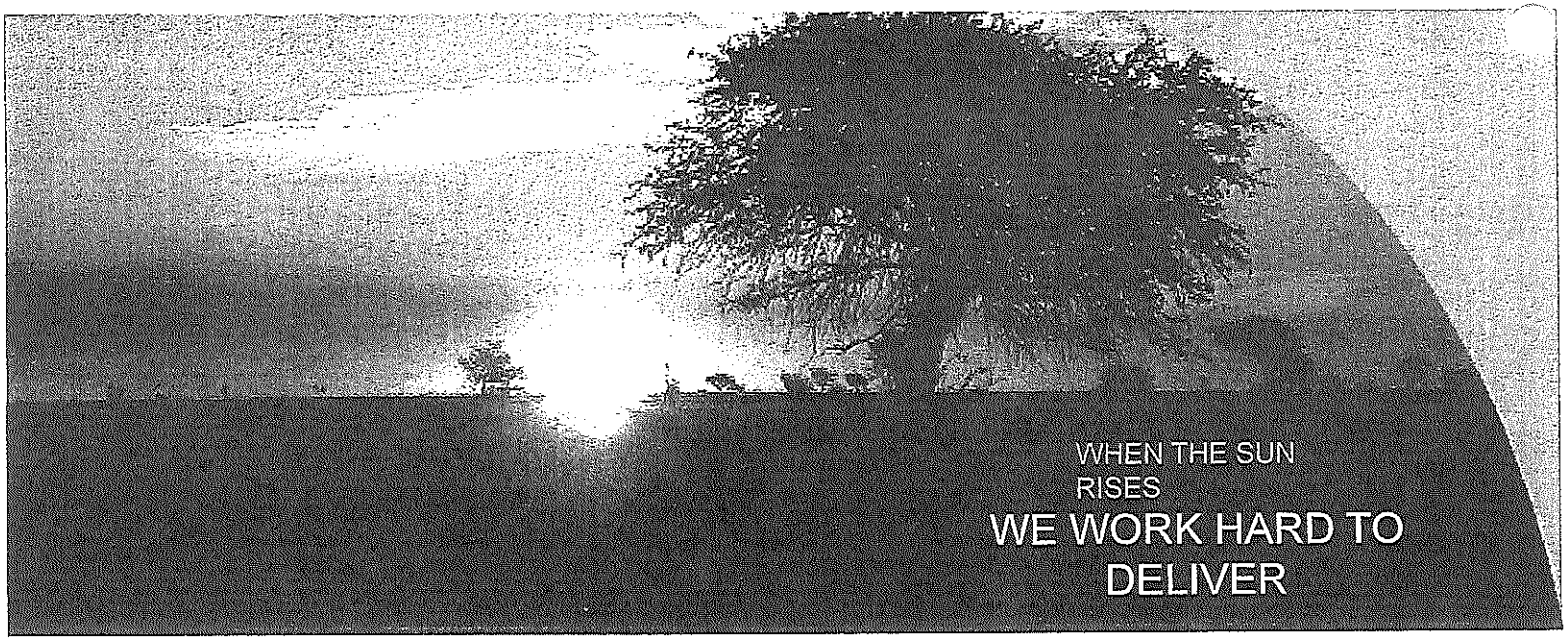
It is recommended that:

The Head: Provincial Treasury notes the report on Eskom debt.

That Provincial Treasury assist municipalities to develop affordable and realistic payment arrangements with Eskom

Provincial Treasury consider to assist municipalities with a financial recovery plan, who persistently fails to honour Eskom debt.

B. Strauss
Acting Program Coordinator
Date 28/04/ 2017



PRESENTATION ON MUNICIPAL BUDGET OUTCOMES

August 2017

Purpose

- To provide a report on the status of the municipal budget assessments as conducted by Provincial Treasury for 2017/18 financial year.

Legislative background and assessment criteria

- In terms of the requirements of the Municipal Finance Management Act and as part of its oversight role over local government finances, the Provincial Treasury is responsible for reviewing and commenting on the tabled budgets of all delegated municipalities prior to their adoption by the respective municipal councils. The tabled budgets of municipalities were rigorously assessed in terms of quality and compliance with the prescriptions of the MFMA and the Municipal Budget and Reporting Regulations.
- The analysis provided in this report is based on the 2016/17 tabled budget and the subsequent engagement with all municipalities.
- From a quality perspective, all budgets were assessed in accordance with three criteria, namely:

- **Credibility:** to determine if budgets are funded in terms of Section 18 of the MFMA and whether the municipality adopted a budget process with evidence of sufficient political oversight and public participation. Political oversight and guidance is crucial for the budget process as the approval of the budget is the responsibility of Council and not that of the Budget and Treasury Office. The budget brings effect to Council priorities and hence these priorities should be financially sustainable and Council must ensure that its priorities are affordable from a budgeting perspective. In assessing the credibility of the budget, the revenue planning framework and associated assumptions are interrogated to determine if they are realistic and indicative of multi-year budgeting.

- **Relevance:** to test if the budget is aligned to the reviewed Integrated Development Plan (IDP) of the municipality and the extent to which the national development plan and provincial priorities, including MFMA Circulars were considered.

- **Sustainability:** to determine whether the budget gives effect to the long-term financial and operational sustainability of the municipality. This is crucial as the budget is analysed over the MTREF.

Background

- All budget assessments were done on the draft budgets as submitted to Provincial Treasury
- Assessment outcomes were communicated with all municipalities
- Recommendations were made to all municipalities with intention to improve the budgets in an effort to get them funded
- The assessment outcome indicated that Nine (9) municipal budget were found to be unfunded.

  - Chief Albert Luthuli
  - Mkhondo
  - Lekwa
  - Msukaligwa
  - Govan Mbeki
  - Dipaleseng
  - Emalahleni
  - Thaba Chweu
  - Bushbuckridge

Municipalities approved budgets were verified to ascertain to what extent Provincial Treasuries recommendations were considered and implemented.

STATUS OF FUNDING

Municipality	Funded / Unfunded	Amount (000)	% Salaries (Norm 25 -40 %)	% Repairs and maintenance (Norm 8 %)
Gert Sibande District Municipality	Yes	R 53 million	34%	3%
Chief Albert Luthuli	No	R 93 million	41%	1%
Mkhondo	No	R 15 million	29%	2%
Dr Pixley Ka Isaka Seme	Yes	R 16 million	32%	3%
Lekwa	No	R917 million	32%	0%
Msukaligwa	No	R 118 million	25%	5%
Govan Mbeki	No	R 537 million	29%	4%
Dipaleseng	No	R 96 million	32%	0%
Nkangala District	Yes	R307 million	34%	5%
Steve Tswhete	Yes	R420 million	34%	2%
Emalahleni	No	R 977 million	24%	2%
Emakhazeni	Yes	R17,4 million	30%	2%
Victor Khanye	Yes	R127,8 million	30%	0%
Dr JS Moroka	Yes	R 10,1 million	37%	0%
Thembisile Hani	Yes	R 6.4 million	15%	0%
Ehlanzeni DM	Yes	R6.5 million	36%	1%
Nkomazi LM	Yes	R55 million	41%	0%
Bushbuckridge LM	No	R105 million	42%	1%
Thaba Chweu LM	No	R568 million	26%	2%

Provision for Salaries, Repairs & Maintenance

- Five Municipalities exceeded the Nat Treasury norm for salaries as a % of the operational Budget

  - Chief Albert Luthuli 41%
  - Dr JS Moroka 37%
  - Ehlanzeni DM 56%
  - Nkomazi 41%
  - Bushbuckridge 42%

- Only two municipalities (Msukaligwa and Nkangala DM) managed to make the minimum provision of 5% towards repairs and maintenance. The prescribed norm is actually 8%.

Detail Municipal Budget analysis over period 2013/14 until 2017/18

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Gert Sibande District Municipalities
Operating Surplus / (Deficit)

Gert Sibande District (Operating Surplus /(Deficit)	2013/14	2014/15	2015/16	2016/17	Treasury Calculation 2016/17	Municipality Draft budget 2017/18 31 March 2017	Draft Budget Treasury Calculation 2017/18	Final approved budget 2017 / 2018
Gert Sibande District	(37 027)	7 294	1 988	(24 839)	(24 839)	(62 080)	**17 292**	(62 080)
Govan Mbeki	(252 431)	(276 239)	(279 011)	9 450	(19 170)	72 335	**(260 854)**	**31 665**
Chief Albert Luthuli	34 906	56 726	80 260	4 266	55 829	21 369	**66 943**	**18 987**
Lekwa	(194 953)	(168 859)	(208 027)	(332 056)	(385 412)	(119 230)	(419 752)	(241 170)
Dr Pixley Ka Isaka Seme	46 155	(102 774)	6 488	110	(45 454)	(8 674)	(3 388)	(11 770)
Dipaleseng	(10 332)	20 080	(44 426)	(43 044)	(41 770)	(13 429)	(19 451)	(13 429)
Mkhondo	(94 734)	(104 808)	(131 822)	(105 093)	(129 713)	(110 683)	(169 381)	(119 340)
Msukaligwa	(67 739)	(173 495)	(207 548)	(144 123)	(141 752)	(130 952)	(135 291)	(140 029)

If a Municipality's operating budget shows a persistent trend of deficits over the years it is indicative that there are financial imbalances. These problems may be related to a failure to collect revenues, low tariffs and high expenditures. The Municipality needs to put appropriate strategies in place to improve revenue and cut cash expenditures where possible.

Cash/cash equivalents

Cash/cash equivalents at the year end: Surplus / (Deficit)	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
	R (000)	R (000)	R (000)	R (000)	R (000)
Gert Sibande District	13 883	30 995	53 574	64 597	12 748
Govan Mbeki	16 232	18 390	14 997	34 184	121 226
Chief Albert Luthuli	18 634	3 921	(64)	14 542	67 645
Lekwa	31 944	33 704	3 755	(163 356)	3 631
Dr Pixley Ka Isaka Seme	46 598	55 400	82 886	118 613	83 042
Dipaleseng	19 952	24 852	23 625	33 746	33 832
Mkhondo	25 501	2 152	4 026	34 184	8
Msukaligwa	111 296	29 958	19 264	(59 198)	(108 594)

The Cash flow budget shows how a Municipality's operations are expected to impact on its cash position. If a Municipality's cash position at year end is negative it is a strong indication that the overall budget is not funded.

Funded (Cash backed / (Cash deficit)

Funded (Cash backed / (Cash deficit)	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
	R (000)	R (000)	R (000)	R (000)	R (000)
Gert Sibande District	(31 090)	2 398	53 864	96 369	63 490
Govan Mbeki	(257 342)	(426 999)	(557 134)	1 227	17 774
Chief Albert Luthuli	(121 281)	(154 571)	(174 992)	31 454	40 983
Lekwa	(252 670)	(304 057)	(428 537)	(508 185)	(251 798)
Dr Pixley Ka Isaka Seme	99 134	58 127	85 960	60 550	68 333
Dipaleseng	(50 149)	(54 554)	(66 945)	760	2 232
Mkhondo	(68 672)	(90 829)	(133 905)	28 967	28
Msukaligwa	(275 050)	(377 857)	(418 710)	(176 181)	(17 302)

The Cash backed reserves /accumulated surplus reconciliation shows whether a municipality has cash reserves from previous years' to fund "internally generated funds on the capital budget.

A unfunded budget is as a result of outstanding creditors being more than debtors which are collectable within 60 days. These relate to liabilities towards (Eskom, Water board and other creditors.

Creditors

Creditors	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
	R (000)	R (000)	R (000)	R (000)	R (000)
Gert Sibande District	68 541	45 419	46 222	20 000	20 000
Govan Mbeki	448 887	549 788	725 152	302 712	325 871
Chief Albert Luthuli	154 874	191 674	215 037	50 422	66 454
Lekwa	323 482	366 663	472 802	665 673	378 170
Dr Pixley Ka Isaka Seme	27 213	26 703	54 051	11 763	17 772
Dipaleseng	78 630	93 979	99 184	29 366	29 366
Mkhondo	115 670	150 262	176 120	56 636	97 640
Msukaligwa	350 448	480 658	502 761	160 829	86 607

A year on year increase in creditors is an indication that a municipality is not effectively managing its working capital requirements or effective controls are not in place to ensure prompt payment of creditors.

This is also an indication that the Municipality is experiencing cash flow problems.

Debtors

Debtors	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
	R (000)	R (000)	R (000)	R (000)	R (000)
Gert Sibande District	18 102	14 846	15 442	30 000	20 000
Govan Mbeki	226 179	168 712	252 979	196 688	225 519
Chief Albert Luthuli	89 589	108 479	130 840	166 173	36 186
Lekwa	55 741	56 908	76 793	191 062	90 305
Dr Pixley Ka Isaka Seme	115 330	48 795	83 050	56 066	34 104
Dipaleseng	20 597	20 184	15 118	41 432	29 175
Mkhondo	31 810	51 907	46 185	135 365	97 659
Msukaligwa	59 441	88 121	84 464	82 325	70 075

The year on year increase in debtors is an indication that a Municipality is unable to collect outstanding debt , and in addition it provides an indication of poor credit control , effectiveness in the implementation thereof and quality of revenue management .

The above trend indicates that a significant amount of potential cash is tied up in consumer debtors, hence the Municipality must improve its revenue.

Liquidity Ratio

Liquidity Ratio 1.5 to 2:1 IDEAL RATIO 200% CURRENT ASSETS (2) versus 100% CURRENT LIABILITIES (1)	Audited 2013/14	Audited 2014/15	Audited 2015/16	Forecasted 2016/17	Final approved budget 2017 / 2018
Gert Sibande District	0,93	1,38	2,49	5,82	4,17
Govan Mbeki	0,53	0,34	0,37	0,26	1,06
Chief Albert Luthuli	0,69	0,61	0,63	2,76	1,93
Lekwa	0,26	0,29	0,26	0,30	0,42
Dr Pixley Ka Isaka Seme	3,93	2,42	2,99	3,15	3,00
Dipaleseng	0,44	0,41	0,32	0,91	0,92
Mkhondo	0,51	0,42	0,33	2,32	1,44
Msukaligwa	0,18	0,26	0,22	0,56	0,95

Norm 1.5 to 2:1

The liquidity ratio is used to measure the Municipality's ability to pay back its short term liabilities.

A ratio under 1 indicates that the Municipality is unable to pay its all its current and short term obligations if they fall due at any specific given time.

If current Liabilities exceeds current assets it highlights serious financial challenges and liquidity problems

Nkangala
Operating Surplus Deficit

Operating Surplus Deficit	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Victor Khanye	(39 015)	(56 071)	(20 259)	7	4 728
Emalahleni	(272 856)	38 277	(497 658)	(48 593)	159 866
Steve Tswhete	62 496	(7 103)	41 547	(37 914)	(63 970)
Emakhazeni	(34 278)	(15 856)	(85 971)	(39 813)	(98 685)
Thembisile Hani	(222 557)	(20 634)	(211 660)	(166 332)	(197 611)
Dr. JS Moroka	52 432	(1 542)	194 951	(140 895)	(67 958)
Nkangala	(73 372)	30 316	22 909	(121 462)	(498)

If a Municipality's operating budget shows a persistent trend of deficits over the years it is indicative that there are financial imbalances. These problems may be related to a failure to collect revenues, low tariffs and high expenditures.
The Municipality needs to put appropriate strategies in place to improve revenue and cut cash expenditures where possible.

Cash/cash equivalents at the year end

Cash/cash equivalents at the year end	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Victor Khanye	42 387	168 452	347 748	23 506	74 519
Emalahleni	(34 394)	14 769	303 417	10 566	5 656
Steve Tswhete	80 631	80 463	61 227	85 502	55 805
Emakhazeni	61 694	6 636	9 306	(9 616)	(40 095)
Thembisile Hani	41 211	86 440	68 832	12 541	54 396
Dr. JS Moroka	52 577	15 510	294 721	14 182	3 535
Nkangala	401 783	432 380	462 348	364 309	385 266

The Cash flow budget shows how a Municipality's operations are expected to impact on its cash position. If a Municipality's cash position at year end is negative it is a strong indication that the overall budget is not funded.

Funded / Unfunded

Funded / Unfunded	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Victor Khanye	1 617	27 778	70 833	8 509	57 449
Emalahleni	(1 072 259)	(1 247 544)	24 100	(347 400)	4 800
Steve Tswhete	383 181	457 023	559 060	561 621	346 016
Emakhazeni	(75 762)	(70 864)	(74 495)	58 133	58 753
Thembisile Hani	(99 927)	(33 755)	1 409	9 026	38 673
Dr. JS Moroka	197	(22 728)	(47 970)	95 385	(50 775)
Nkangala	483 612	754 506	419 916	385 039	387 516

The Cash backed reserves /accumulated surplus reconciliation shows whether a municipality has cash reserves from previous years' to fund "internally generated funds on the capital budget.

An unfunded budget is as a result of outstanding creditors (Eskom, Water Board) and other creditors as well as the inability to collect outstanding debt.

Creditors

Creditors	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Victor Khanye	50 305	56 646	54 319	21 320	64 540
Emalahleni	1 459 517	1 789 560	830 000	1 588 869	1 750 542
Steve Tswhete	154 794	189 581	100 480	100 480	111 924
Emakhazeni	93 610	113 003	123 940	69 370	72 202
Thembisile Hani	110 422	110 422	15 120	24 006	22 120
Dr. JS Moroka	95 680	83 049	87 036	8 583	79 770
Nkangala	59 387	44 425	36 715	26 899	26 899

A year on year increase in creditors is an indication that a municipality is effectively managing its working capital requirements or that effective controls are not in place to ensure prompt payment of creditors.

This is also an indication that the Municipality is experiencing cash flow problems

Debtors

Debtors	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Victor Khanye	108 847	72 564	293 577	123 802	94 601
Emalahleni	514 485	642 855	975 914	1 512 562	2 149 535
Steve Tswhete	98 813	123 864	99 110	86 863	96 396
Emakhazeni	57 138	81 784	33 094	146 455	116 000
Thembisile Hani	4 348	54 193	42 612	21 428	37 926
Dr. JS Moroka	37 015	89 282	69 573	95 392	37 244
Nkangala	23 530	15 815	25 573	7 829	5 590

The year on year increase in debtors is an indication that a Municipality is unable to collect outstanding debt , and in addition it provides an indication of the quality of credit control policy , effectiveness in the implementation thereof and quality of revenue management .

The above trend indicates that a significant amount of potential cash is tied up in consumer debtors, hence the Municipality must improve its revenue and cash flow management.

Liquidity Ratio

Liquidity Ratio	2013/14	2014/15	2015/16	2016/17	2017 / 2018 Final
Victor Khanye	4,09	1,18	3,12	6,01	1,48
Emalahleni	0,35	0,36	1,19	0,88	1,15
Steve Tswhete	2,83	2,88	4,14	3,48	2,95
Emakhazeni	0,67	0,84	0,36	2,17	2,43
Thembisile Hani	0,33	0,99	1,76	5,73	5,08
Dr. JS Moroka	1,53	1,60	0,88	9,39	0,55
Nkangala	8,93	12,56	13,62	14,08	19,12

Norm 1.5 to 2:1

The liquidity ratio is used to measure the Municipality's ability to pay back its short term liabilities.

A ratio under 1 indicates that the Municipality is unable to pay its all its current and short term obligations if they fall due at any specific given time.

If current Liabilities exceeds current assets it highlights serious financial challenges and liquidity problems

Ehlanzeni District Municipalities
Operating Surplus Deficit

Operating Surplus Deficit	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Bushbuckridge	2 311	(12 622)	60 354	4 007	45 814
Nkomazi	45 201	230 526	105 350	382 150	8 004
Thaba Chweu	(122 629)	(187 406)	(148 676)	(82 584)	(10 944)
Ehlanzeni	5 221	25 895	24 218	26 613	15 903

If a Municipality's operating budget shows a persistent trend of deficits over the years it is indicative that there are financial imbalances. These problems may be related to a failure to collect revenues, low tariffs and high expenditures.

The Municipality needs to put appropriate strategies in place to improve revenue and cut cash expenditures where possible.

Cash/cash equivalents at the year end: Surplus / (Deficit)

Cash/cash equivalents at the year end:	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Bushbuckridge	142 475	301 154	(7 890)	156 422	80 493
Nkomazi	3 985	38 114	65 080	64 741	102 624
Thaba Chweu	4 885	8 996	5 237	(16 182)	24 766
Ehlanzeni	49 685	76 349	68 132	22 408	14 509

The Cash flow budget shows how a Municipality's operations are expected to impact on its cash position. If a Municipality's cash position at year end is negative it is a strong indication that the overall budget is not funded.

Funded / Unfunded

Funded / Unfunded	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Bushbuckridge	(237 194)	(160 615)	(362 745)	73 351	22 945
Nkomazi	(123 628)	(80 839)	361 389	77 295	124 972
Thaba Chweu	(196 035)	(349 934)	(403 734)	39 527	(193 224)
Ehlanzeni	125 981	71 776	95 851	24 557	35 504

The Cash backed reserves /accumulated surplus reconciliation shows whether a municipality has cash reserves from previous years' to fund "internally generated funds on the capital budget.

An unfunded budget is as a result of outstanding creditors (Eskom, Water Board) and other creditors as well as the inability to collect outstanding debt.

Creditors

Creditors	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Bushbuckridge	601 341	558 623	603 628	388 000	401 614
Nkomazi	218 015	239 551	316 743	192 575	228 444
Thaba Chweu	267 569	445 815	443 912	75 000	427 874
Ehlanzeni	45 266	48 002	34 395	45 000	35 150

A year on year increase in creditors is an indication that a municipality is effectively managing its working capital requirements or that effective controls are not in place to ensure prompt payment of creditors.

This is also an indication that the Municipality is experiencing cash flow problems

Debtors

Debtors	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Bushbuckridge	389 283	687 857	640 331	1 207 000	1 435 798
Nkomazi	102 052	24 357	228 119	250 003	295 774
Thaba Chweu	33 177	94 729	40 952	86 000	203 534
Ehlanzeni	2 792	2 360	1 690	2 350	2 115

The year on year increase in debtors is an indication that a Municipality is unable to collect outstanding debt , and in addition it provides an indication of the quality of credit control policy , effectiveness in the implementation thereof and quality of revenue management .

The above trend indicates that a significant amount of potential cash is tied up in consumer debtors, hence the Municipality must improve its revenue and cash flow management

Liquidity Ratio

Liquidity Ratio	2013/14	2014/15	2015/16	2016/17	Final approved budget 2017 / 2018
Bushbuckridge	0,87	1,53	1,17	2,85	3,45
Nkomazi	0,45	0,74	0,82	1,33	1,33
Thaba Chweu	0,35	0,28	0,18	1,74	1,46
Ehlanzeni	0,93	1,31	1,79	1,33	1,68

Norm 1.5 to 2:1

The liquidity ratio is used to measure the Municipality's ability to pay back its short term liabilities.

A ratio under 1 indicates that the Municipality is unable to pay its all its current and short term obligations if they fall due at any specific given time.

If current Liabilities exceeds current assets it highlights serious financial challenges and liquidity problems

Key Crosscutting Issues

- Revenue enhancement plans show little or no impact on revenue improvement.
- Municipalities failure to budget for repairs and maintenance.
- Municipalities continue to budget for revenue improvement plans, which did not materialise.
- Municipalities indigent registers not updated, which impact on collection of debt
- Debtors are still escalating due to incorrect data.
- The above impact negatively on municipal cash flow's, which contributes to increase of Creditors.
- Inability of municipalities to make provision for Repairs and Maintenance.
- Inability to spend Grant Funding will impact seriously on next financial year's cash flow. (Unspent Grant's not cash backed)
- Municipal plans IDP and budgets are not aligned.
- Municipalities failed to demonstrate clearly how the Socio Economic Challenges were considered and addressed in the draft budgets.
- Municipalities still challenged with mSCOA compliance.
- No Municipality ready for implementation of Infrastructure Procurement Changes from 1 July 2017.

Key Cross-cutting Issues

Governance and Leadership – CoGTA responsibility

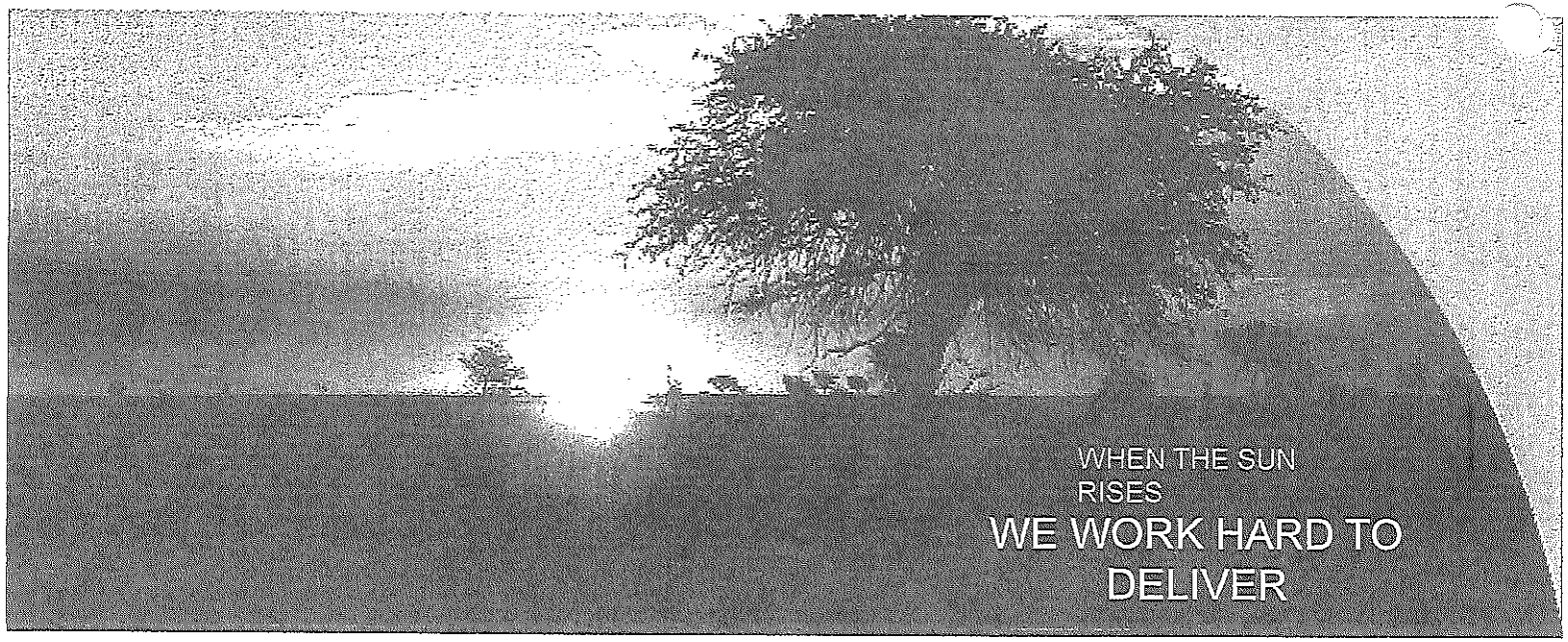
- Weak municipal leadership, including ineffective councils and governance structures contribute to weak fiscal discipline; and the consequence of financial mismanagement, political/ administrative instability and conflicting relationships
- Notably accountability is weaker at municipalities where there is an "acting" incumbent as an municipal manager is less inclined to take decisions
- The abscence of a suitably competent CFO's – is a risk to sound financial management, non-compliance to the legal framework and general mismanagement of public funds

The situation requires a strategic response -collective and collaborative

- To address the **"culture of non-payment"** it is imperative that the broader scope of remedial action is recognised (Political backing and oversight)
- A multi-pronged (collective and coordinated) approach is essential to address operational inefficiencies
- Though much attention is given to Eskom and the arrears owed to them
- The strategic response must focus on **ALL CREDITORS** and should not limit the effort to one single creditor – all creditors must receive the same attention

Recommendations

- All municipalities to ensure that budgets becomes funded over period of three years.
- All municipalities to ensure accurate reporting.
  - Figures of Audit outcomes materially differs from adjustment budgets.
  - This contributed to questions over credibility of budgets (challenge during the budget verification for 2017/18 financial year
- Municipalities to priorities the implementation of revenue improvement plans
- Municipalities to be more cost effective through cost containment and elimination of wasteful expenditure,
- Contract management.
- Review current contractual liabilities in ensuring value for money principal is applied.
- We will only get budgets funded if we concentrate on both expenditure side as well as revenue side. If our expenditure is not cash backed we will not win.
- Municipalities to ensure that indigent registers are updated annually
- Payment plans to be developed for all creditors
- Valuation roll and billing system must be reconciled in ensuring correct consumers are billed.
- Municipalities to seriously consider only billing land owners and not users renting from owners.



PRESENTATION TO PCF ON SUPPORT TO MUNICIPALITIES

OCTOBER 2017

Purpose

- To provide a report on the support to municipalities in terms of the "game changers" by Provincial Treasury.

Responsibilities of Provincial Treasury

OBJECT 6:

- To secure sound and sustainable management of the fiscal and financial affairs of municipalities and municipal entities by establishing norms and standards and other requirements for Ensuring transparency, accountability and appropriate lines of responsibility in the fiscal and financial affairs of municipalities and municipal entities;
- The management of their revenues, expenditures, assets and liabilities and the handling of their financial dealings,
- Budgetary and financial planning processes and the co-ordination of those processes with the processes of organs of state in other spheres of government,
- The handling of financial problems in municipalities, Supply chain management;
- and Other financial matters.

Complexities with municipal operations

- There are complexities that underpin operational failures at the municipalities
- Past engagements revealed the following as the main contributors to the Operational failures at municipalities

Financial Management falls in the ambit of treasuries responsibility

- These span from poor implementation of financial management principals to weak budgeting capabilities, to unacceptably low collection levels, ineffective budget planning and implementation, in adequate allocation for repairs and maintenance and asset management, weak internal controls, risk management and supply chain management
- The LGES is mainly used to fund arrear debt rather than utilised for the purpose of service delivery

Governance and Leadership – CoGTA responsibility

- Weak municipal leadership, including ineffective councils and governance structures contribute to weak fiscal discipline; and the consequence of financial mismanagement, political/ administrative instability and conflicting relationships
- Notably accountability is weaker at municipalities where there is an "acting" incumbent as an municipal manager is less inclined to take decisions
- The abscence of a suitably competent CFO's – is a risk to sound financial management, non-compliance to the legal framework and general mismanagement of public funds

Guidelines of Technical Committee of Finance

- In 2015, the TCF Lekgotla acknowledged that more effort is required to ensure financially sustainable municipalities and that revenue management is one of the key "game changers" to address municipal performance failures.
- On the 19 May 2017 NT presented to TCF that most municipalities are failing to maintain financial sustainability and to effectively deliver services
- Municipalities are not abiding to the legal prescripts hence increase liability that is impacting on their sustainability
- Statements made at the TCF was that:
  - the approach was similar to the previous attempts by NT;
  - The approach was not inclusive of the legislative misalignment;
  - Fragmentation, duplication and challenges relating with CoGTA and resolving clarity of roles and responsibilities;
  - The approach does not identify the initiatives into short, medium and longer term.

The situation requires a strategic response -collective and collaborative

National and provincial government

- Cannot be "bystanders" or "spectators" whilst municipalities face litigation and have their assets attached
- has failed to timeously and adequately respond to the crises facing municipalities
- has failed to invoke s139 or s154 of the Constitution when the need arose
- is failing its fiduciary responsibility if it does not utilise the provisions of the legal framework to intervene
- Persistent failure to pay creditors and intervention by courts are not a feasible option as service delivery is the casualty
- Non-compliance to legislation must not be ignored

- To address the "**culture of non-payment**" it is imperative that the broader scope of remedial action is recognised
- A multi-pronged (collective and coordinated) approach is essential to address operational inefficiencies from all spheres of government
- Though much attention is given to Eskom and the arrears owed to them
- The strategic response must focus on **ALL CREDITORS** and should not limit the effort to one single creditor – all creditors must receive the same attention
- Therefore stakeholders such as NT, PTs, DCoG, SALGA, DPE, DWS and Eskom are key participants to structure a suitable remedy

Proposed response to address the culture of non-payment

Focus on the top twenty creditors with liquidity challenges – which in all probability includes Eskom and Water Boards debt

	SHORT TERM	MEDIUM TERM	LONG TERM
NT/PT MFMA TCF Lekgotla resolution	Support – Game Changers, MFIP, Review of the LGES – favours rural type municipalities • Robust assessment of the 2017/18 budget • Adoption funded budgets – improved revenue or reduced expenditure • Adequate surpluses to accommodate the inclusion of credit liability / payment arrangements • Establishment of a committee for resilient monitoring and oversight • Government debt • Guide affordable payment arrangements • Turnaround plan	Invoking of s216 for failure to adhere to short term initiatives or s139 of the MFMA	Eliminate "GREY" areas in the two Acts that are confusing roles and responsibilities and to avoid duplications Financial recovery plans
CoGTA MSA	• Back to basics – governance – no acting MMs and CFOs • Ensure debt collection and credit control policies are structured in the best interest of the municipality • Review of indigent policy • Government debt	Possible of invoking s139 of the Constitution	Support – MISA, MSIG, Deployment of Technical Advisors

Game changers in Local Government

- Having worked with municipalities these appear to be the key **"game changers"** that are required to address municipal financial performance failures in the next period ahead:

a) Ensure that municipal **budgets** are **funded;**

b) Improve municipal **revenue management**, including billing practices and revenue collection;

c) Improve municipal **asset management**, including investing more in revenue generating assets;

d) Assist and ensure that all municipalities comply with the Standard Chart of Accounts for municipalities (**mSCOA**) by 01 July 2017;

e) Improve Supply Chain Management (**SCM**) practices.

The provincial strategies and support plans between the respective municipalities and the Provincial Treasury should prioritise these key "game changers".

- Proper internal controls to protect revenue, assets and capital. Measures are in place to curb improper use, loss or theft.

Capacity support from National Treasury

- National Treasury is in a process to appoint and deploy Technical Advisors to all Provincial Treasuries during the month of November 2017. PT already received two advisors. (MFMA and mSCOA)
- Advisors will be deployed to Provincial Treasury in the following areas to support municipalities:
  - Revenue Management
  - Supply Chain Management
  - Asset Management.
- A Technical Advisor was further deployed to assist Emalahleni Municipality.
- Provincial Treasury established a database consisting of Service Providers to assist municipalities in areas identified for support. (35 Service Providers were registered) in the areas of Financial Management, Sustainable Financial Solutions, Project Management, Supply Chain Management, Contract Management and Training.
- Provincial Treasury is in a process to deploy some of these service providers to five critical municipalities as phase one. (Thaba Chweu, Emalahleni, Dipaleseng, Lekwa and Govan Mbeki)

Support towards budgets and revenue improvement

Municipality	Status of Budget	Contributing factors to unfunded budgets	Recommendations made to Municipalities after budget assessment	Provincial Treasury Support
Emalahleni	Unfunded	• Inadequate control over Overtime and stand by allowances • Unrealistic revenue projections • Culture of non-payment for services • Distribution losses due to inability to bill all users • Tampering of meters (Electricity and Water) • Inability to pay creditors • Huge increases on debt book • Trading losses on basic services .i.e electricity • Unplanned expenditure contributing to UIFW	• Budget a realistic cash flow projections based on current collection rate • Review all SLA's in ensuring value for money are received and they are performance based • Ensure ongoing review and implementation of revenue enhancement plans • Identification of prepaid meters whom did not buy electricity for the past three months and conventional meters whose readings were stagnant and implement credit control policy • Municipal should enter into repayment plans with top 10 creditors in line with cash flow projections • Establish cash flow management committee to prioritize commitments to be in line with cash flow. • Ensure compliance to the budget ratio's as prescribed	▪ Provided training and orientation to the Chief Risk Officer of Gert Sibande DM. Evaluated and provided feedback on the effectiveness of Risk Management Committees ▪ Reviewed the Risk Management Guideline and Enterprise Risk Management Framework for the Province. ▪ Provincial Treasury participates on the Revenue Enhancement Steering Committee ▪ Deployment of Technical Advisor on MFMA responsibilities by National Treasury and Municipal Specialists ▪ Assessment of audit remedial action plan with written feedback ▪ Support during audit steering committee meetings • Earmarked for deployment of Service Provider to assist with: 1. Accurate billing 2. Revenue protection 3. Revenue enhancement 4. Support the municipality with initiatives to move towards a funded budget 5. Supported MPAC with guidance on investigations conducted 6. Support municipality during strategic planning.

Support towards budgets and revenue improvement Cont...

Municipality	Status of Budget	Contributing factors to unfunded budgets	Recommendations made to Municipalities	Provincial Treasury Support
Govan Mbeki	Unfunded	• Unrealistic revenue projections • Inadequate control over Overtime and stand by allowances • Culture of non-payment for services • Distribution losses due to inability to bill all users • Tampering of meters (Electricity and Water) • Inability to pay creditors • Huge increases on debt book • Unplanned expenditure which contributes to high UIFW • Trading losses on basic services .i.e electricity	• Budget a realistic cash flow projections based on current collection rate • Municipal Council should encourage ward Councilors to promote for the payment of services in their ward community meetings • Identification of prepaid meters whom did not buy electricity for the past three months and conventional meters whose readings were stagnant and implement credit control policy • Municipal should enter into repayment plans with top 10 creditors in line with cash flow projections • Establish cash flow management committee to prioritize commitments to be in line with cash flow	• Made recommendations to municipality to improve from unfunded budget • Deployment of Municipal Specialist on MFMA responsibilities by Provincial and National Treasury ▪ Provided training and orientation to the Chief Risk Officer of Gert Sibande DM. Evaluated and provided feedback on the effectiveness of Risk Management Committees of two Votes and three Municipalities. ▪ Reviewed the Risk Management Guideline and Enterprise Risk Management Framework for the Province. ▪ Supported municipality with budget verification ▪ Assessment conducted on contracts to determine whether all are performance based. • Earmarked deployment of Service Provider to assist with: 1. Accurate billing 2. Revenue protection 3. Revenue enhancement 4. Support the municipality with initiatives to move towards a funded budget

Support towards budgets and revenue improvement Cont...

Municipality	Status of Budget	Contributing factors to unfunded budgets	Recommendations made to Municipality	Provincial Treasury Support
Thaba Chweu	• Funded	• Corrupted Consumer Data at Sabie • Inadequate control over Overtime and stand by allowances • Unrealistic revenue projections • Culture of non-payment for services (Sabie and Graskop) • Distribution losses due to inability to bill all users • Tampering of meters (Electricity and Water) • Inability to pay creditors • Huge increases on debt book • Trading losses on basic services .i.e electricity • Inability of Council to install prepaid meters • Unplanned expenditure which contributes to huge UIFW	• Budget a realistic cash flow projections based on current collection rate • Municipal Council should encourage ward Councilors to promote for the payment of services in their ward community meetings • Identification of prepaid meters whom did not buy electricity for the past three months and conventional meters whose readings were stagnant and implement credit control policy • Municipal should enter into repayment plans with top 10 creditors in line with cash flow projections • Establish cash flow management committee to prioritize commitments to be in line with cash flow	• Supported with budget verification • Conduct assessment of tariff structures • Provincial Treasury assisted with review and participates on the Revenue Enhancement Steering Committee • Deployment of Municipal Specialist on MFMA responsibilities by Provincial Treasury ▪ Provided training and orientation to the Chief Risk Officer of Gert Sibande DM. •Evaluated and provided feedback on the effectiveness of Risk Management Committees of two Votes and three Municipalities. ▪ Reviewed the Risk Management Guideline and Enterprise Risk Management Framework for the Province. ▪ Assessment conducted on contracts to determine whether all are performance based. ▪ Assessment of audit remedial action plan with written feedback ▪ Support during audit steering committee meetings • Planned deployment of Service Provider to assist with: 1. Accurate billing 2. Revenue protection 3. Revenue enhancement 4. Support the municipality with initiatives to move towards a funded budget

Support towards budgets and revenue improvement Cont...

Municipality	Status of Budget	Contributing factors to unfunded budgets	Recommendations made to Municipalities	Provincial Treasury Support
Lekwa	Unfunded	• Poor budget controls over contractual obligations (Service Level Agreements not signed with service providers which are performance based) • Inadequate control over Overtime and stand by allowances • Slow impact with implementation of smart meters • Budget and Treasury office functions outsourced to consultants • Unrealistic revenue projections due to: ◦ Tariff structures not cost reflective ◦ Culture of non- payment for services ◦ Distribution losses due to inability to bill all users ◦ Tampering of meters (Electricity and Water) • Inability to pay creditors • Huge increases on debt book • Inadequate control over lease agreements (Vehicle Leases) • Trading losses on basic services .i.e. electricity and water	• Budget a realistic cash flow projections based on current collection rate • Municipal Council should encourage ward Councilors to promote for the payment of services in their ward community meetings • Installation of meters • Review of tariff structures • Identification of prepaid meters whom did not buy electricity for the past three months and conventional meters whose readings were stagnant and implement credit control policy • Municipal should enter into repayment plans with top 10 creditors in line with cash flow projections • Establish cash flow management committee to prioritize commitments to be in line with cash flow	▪ Provincial Treasury participates on the Revenue Enhancement Steering Committee ▪ Deployment of MFMA Specialist ▪ Provided training and orientation to the Chief Risk Officer of Gert Sibande DM. Evaluated and provided feedback on the effectiveness of Risk Management Committees ▪ Reviewed the Risk Management Guideline and Enterprise Risk Management Framework for the Province. ▪ Deployment of Service Provider to assist with: 1. accurate billing 2. Revenue protection 3. Revenue enhancement 4. Support the municipality with initiatives to move towards a funded budget 5. Review of all Service Level Agreements in ensuring value for money and performance based 6. Conducted assessment on draft budget

Support towards budgets and revenue improvement Cont...

Municipality	Status of Budget	Contributing factors to unfunded budgets	Recommendations made to Municipalities	Provincial Treasury Support
Msukaligwa	Unfunded	• No by in from the business chamber on revenue initiatives • Unrealistic revenue projections • Culture of non- payment for services • Distribution losses due to inability to bill all users • Tampering of meters (Electricity and Water) • Inability to pay creditors • Huge increases on debt book • Trading losses on basic services .i.e electricity and water • Insufficient control over contract management	• Budget a realistic cash flow projections based on current collection rate • Municipal Council should encourage ward Councilors to promote for the payment of services in their ward community meetings • Identification of prepaid meters whom did not buy electricity for the past three months and conventional meters whose readings were stagnant and implement credit control policy • Municipal should enter into repayment plans with top 10 creditors in line with cash flow projections • Establish cash flow management committee to prioritize commitments to be in line with cash flow	• Provincial Treasury participates on the Revenue Enhancement Steering Committee • Deployment of MFMA Specialist by Provincial Treasury ▪ Provided training and orientation to the Chief Risk Officer of Gert Sibande DM. Evaluated and provided feedback on the effectiveness of Risk Management Committees ▪ Reviewed the Risk Management Guideline and Enterprise Risk Management Framework for the Province. ▪ Support with implementation of mSCOA • Deployment of Service Provider to assist with: 1. accurate billing 2. Revenue protection 3. Revenue enhancement 4. Support the municipality with initiatives to move towards a funded budget 5. Review and Implementation of Standard Operating Procedures

Support towards budgets and revenue improvement Cont...

Municipality	Status of Budget	Contributing factors to unfunded budgets	Recommendations made to Municipalities	Provincial Treasury Support
Mkhondo	Unfunded	• Insufficient control over contract management • Unrealistic revenue projections • Culture of non- payment for services • Distribution losses due to inability to bill all users • Tampering of meters (Electricity and Water) • Inability to pay creditors • Huge increases on debt book • Trading losses on basic services .i.e electricity • By laws not promulgated	• Budget a realistic cash flow projections based on current collection rate • Municipal Council should encourage ward Councilors to promote for the payment of services in their ward community meetings • Identification of prepaid meters whom did not buy electricity for the past three months and conventional meters whose readings were stagnant and implement credit control policy • Municipal should enter into repayment plans with top 10 creditors in line with cash flow projections • Establish cash flow management committee to prioritize commitments to be in line with cash flow	• Provincial Treasury participates on the Revenue Enhancement Steering Committee • Provincial Treasury is assisting in resolving disputes with farmers on paying Property rates • Deployment of MFMA Specialist • Supported with assessment of draft budget • Supported with budget verification ▪ Supported municipality with assessment of tariff structures ▪ Provided training and orientation to the Chief Risk Officer of Gert Sibande DM. Evaluated and provided feedback on the effectiveness of Risk Management Committees ▪ Reviewed the Risk Management Guideline and Enterprise Risk Management Framework for the Province.

Support towards budgets and revenue improvement Cont…

Municipality	Status of Budget	Contributing factors to unfunded budgets	Recommendations made to Municipalities	Provincial Treasury Support
Dipaleseng	Unfunded	• Low revenue base and 47 percent unemployment rate • Unrealistic revenue projections • Culture of non-payment for services • Distribution losses due to inability to bill all users • Tampering of meters (Electricity and Water) • Inability to pay creditors • Huge increases on debt book • Trading losses on basic services .i.e electricity and water • Huge salary bill due to low revenue collection	• Budget a realistic cash flow projections based on current collection rate • Municipal Council should encourage ward Councilors to promote for the payment of services in their ward community meetings • Priorities businesses and ensure correctness of meters, meter readings and submission of accounts • Categories debtors and priorities collection of top 100 • Identification of prepaid meters whom did not buy electricity for the past three months and conventional meters whose readings were stagnant and implement credit control policy • Municipal should enter into repayment plans with top 10 creditors in line with cash flow projections • Establish cash flow management committee to prioritize commitments to be in line with cash flow	• Supported municipality with financial viability assessment and made recommendations to manage and improve cash flow • Provincial Treasury participates on the Revenue Enhancement Steering Committee. • Deployment of MFMA Specialist to advise on Financial Management • Deployment of Service Provider to assist with: 1. Accurate billing 2. Revenue protection 3. Revenue enhancement 4. Support the municipality with initiatives to move towards a funded budget • Provided training and orientation to the Chief Risk Officer of Gert Sibande DM. Evaluated and provided. feedback on the effectiveness of Risk Management Committees • Reviewed the Risk Management Guideline and Enterprise Risk Management Framework for the Province. • Coordinate collection of government debt • Support with implementation of mSCOA

Support towards budgets and revenue improvement Cont...

Municipality	Status of Budget	Contributing factors to unfunded budgets	Recommendations made to Municipalities	Provincial Treasury Support
Chief Albert Luthuli	Unfunded	◦ Low revenue base and 44 collection rate ◦ Most arrears are not proclaimed and municipality failing to bill and collect revenue ◦ Large arrears were provided with electricity and municipality unable to implement credit control ◦ Unrealistic revenue projections ◦ Culture of non- payment for services ◦ Distribution losses due to inability to bill all users ◦ Tampering of meters (Electricity and Water) ◦ Inability to pay creditors ◦ Huge increases on debt book ◦ Trading losses on basic services .i.e electricity and water ◦ Huge salary bill due to low revenue collection	◦ Budget a realistic cash flow projections based on current collection rate ◦ Municipal Council should encourage ward Councilors to promote for the payment of services in their ward community meetings ◦ Identification of prepaid meters whom did not buy electricity for the past three months and conventional meters whose readings were stagnant and implement credit control policy ◦ Municipal should enter into repayment plans with top 10 creditors in line with cash flow projections ◦ Establish cash flow management committee to prioritize commitments to be in line with cash flow	▪ Support with verification of budget and full compliance were achieved. ▪ Conduct assessment on tariff structures and made recommendations to municipality ▪ Assist municipality to review revenue enhancement strategy ▪ Coordinate collection of government debt ▪ Support with implementation of mSCOA ▪ Coordinate collection of government debt. ▪ Assessment of audit remedial action plan with written feedback ▪ Support during audit steering committee meetings

Key Crosscutting Issues

- Revenue enhancement plans show little or no impact on revenue improvement.
- Municipalities failure to budget for repairs and maintenance.
- Municipalities continue to budget for revenue improvement plans, which did not materialise.
- Municipalities indigent registers not updated, which impact on collection of debt
- Debtors are still escalating due to incorrect data.
- The above impact negatively on municipal cash flow's, which contributes to increase of Creditors.
- Inability of municipalities to make provision for Repairs and Maintenance.
- Inability to spend Grant Funding will impact seriously on next financial year's cash flow. (Unspent Grant's not cash backed)
- Municipal plans IDP and budgets are not aligned.
- Municipalities failed to demonstrate clearly how the Socio Economic Challenges were considered and addressed in the draft budgets.
- Municipalities still challenged with mSCOA compliance.

Recommendations

- All municipalities to ensure that budgets becomes funded over period of three years.
- All municipalities to ensure accurate reporting.
  - Figures of Audit outcomes materially differs from adjustment budgets.
  - This contributed to questions over credibility of budgets (challenge during the budget verification for 2017/18 financial year
- Municipalities to priorities the implementation of revenue improvement plans
- Municipalities to be more cost effective through cost containment and elimination of wasteful expenditure,
- Review current contractual liabilities SLA's in ensuring value for money principal is applied.
- When contracting services out ensure SLA is performance based.
- Municipalities to ensure that indigent registers are updated annually.
- Payment plans to be developed for all creditors
- Valuation roll and billing system must be reconciled in ensuring correct consumers are billed.
- Municipalities to seriously consider only billing land owners and not users renting from owners.

MINUTES OF MEETING BETWEEN HON. PREMIER, PROVINCIAL TREASURY, COGTA AND LOCAL MUNICIPALITIES

DATE: 17 October 2017	TIME: 09:00 AM	VENUE: Premier's Boardroom

1. OPENING AND WELCOME REMARKS

Hon. Premier welcomed all members present and Executive Mayors

2. ATTENDANCE AND APOLOGIES

NAME AND SURNAME	POSITION
Clr Ntshalintshali	Executive Mayor: Emalahleni
Clr Maboa-Boltman	Executive Mayor: Govan Mbeki
Clr Mashego	Executive Mayor: Thaba Chweu
Mr Mhlanga	Acting MM: Govan Mbeki
Mr Sibeko	CFO: Govan Mbeki
Mr Kgoale	MM: Thaba Chweu
Mr Kunene	MM: Mkhondo
Mr Maisela	Acting MM: Emalahleni
Mr Sibeko	CFO: Mkhondo
Mrs Ngema	CFO: Dipaleseng
Ms Hlatswayo	CFO: Emalahleni

3. PURPOSE OF THE MEETING

The purpose of the meeting was to measure progress between Municipalities and Eskom as the municipalities were battling in servicing the Eskom arrear accounts and payment of current account as it causes instability in the Province.

4. DISCUSSION ITEMS

NO.	MUNICIPALITY	DISCUSSION ITEMS	Challenges/Progress
4.1	**Mkhondo Local Municipality**	• Mkhondo municipality owes Eskom R45 million. The municipality was listed on the PAJA process to be disconnected with Bulk Supply on the 09 October 2017	• The municipality is been charged penalties of R3 million due to exceeding NMD (Notified Maximum Demand • Municipality received a quotation of R60 million to from Eskom of which R14 million as a deposit for the upgrade of which the municipality did not have and not budgeted for • Municipality did enter into a Prepaid contract with IDEALS which reduced prepaid electricity revenue from R7 million to R4 million and the issue was in court as the municipality terminated the contract • The municipality disputed R4,5 million bill to Eskom and was reduced to R2,5 million • Vodacom has been contracted to install split meters and have noted R1 million increase on revenue • R295 million on debtors book. Govt owes R3 million Public works, national Public Works R5 million to be paid by today. •
4.2	Emalahleni Local Municipality	• Emalahleni local municipality owes Eskom R1,3 billion. The municipality was listed on the PAJA process to be disconnected with Bulk Supply on the 29 October 2017	• The MOU between Emalahleni and VODACOM was delayed in implementation and the results now are visible and possible results, • Migration of the old system to the new system, billing was delayed in July and August. • Vista was not coping with the workload and National Treasury was called in to

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			assist. • Installation of smart meters was delayed on Estates and access was denied by the community. engagements were ongoing and the challenge is on Townships were residents were not taking the smart meters projects and ward councilors were not engaging the community. • 27000 prepaid meters were not buying electricity and illegal connections were a challenge. • R204 million has been paid to Eskom since July. • 17000 meters were installed in business, 3000 protective structures were installed • The new house 8000 formalised have been included on the billing. • 26000 households were not billed at all, red ants are assisting in the cut offs. • 5527 prepaid meters has been installed where there were no meters. • Eskom was promised R4 million on daily basis and its not easy. • The municipality is busy with DATA Cleansing and Vodacom to ensure credibility of the municipal bills. • There is a group called Save Emalahleni to complain about Eskom not treating the municipality fairly, invasion of houses at KwaguQa. National Public works owes R11 million,
4.3	Dipaleseng Local Municipality	• Dipaleseng local municipality owes Eskom R33 million. The municipality was listed on the	• Eskom is been owed R33 million and eskom wants R20 million,

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		PAJA process to be disconnected with Bulk Supply on the 09 October 2017 and disconnections were done on daily basis	• revenue collection is R7 million, salaries is R5 million. • Unemployment rate is 47 percent. • Vodacom have been appointed, they are busy with data cleansing, additional R800k was realized, public works have already paid us R2 million, Rural development R10 million to be paid by the department. • Community was already uprising and they want to burn municipal offices due to interruptions. Public works Nationally owes R2 million.
4.4	Thaba Chweu Local Municipality	• Thaba Chweu local municipality owes Eskom R390 million. The municipality was listed on the PAJA process to be disconnected with Bulk Supply on the 09 October 2017 and disconnections were done on daily basis	• Protests already in Thaba Chweu, • R390 million owe to Eskom. • Promised to pay R15.5 million before 09 October 2017. • Eskom continues with PAJA and challenges were illegal connections. • Community don't want meters 15000 of them as they don't want to pay. • Public Works R26 million and R6.1 million was paid to the municipality.
4.5	Govan Mbeki Local Municipality	• Thaba Chweu local municipality owes Eskom R500 million. The municipality was listed on the PAJA process to be disconnected with Bulk Supply on the 09 October 2017 and disconnections were done on daily basis	• Community started protesting because of the switching off by Eskom. • Complaints were raised about damaged utensils due to illegal connections • the area that were not paying was Embalenhle, R150 million was paid to Eskom and there were no switching. • The migration of the financial system

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			from SEBATA to VESTA ...as caused us from R80 million to R51 million. ◦ Government departments have paid and VODACOM is on board and there is a resistance from the communities as there are illegal connections, colluding with vendors, ◦ staff not supporting the current MM, ◦ MEC proposed an investigation due to lack of support to current leadership. ◦ Data cleansing needed as there are 13000 households that are not billed by the municipality.
5.	WAY FORWARD		
5.1	1. Municipality must Leave the function (Electricity) or hand over the license back to Eskom 2. Another meeting (Municipalities, Eskom, Vodacom), where we agreed to pay and did not pay. Urgent meeting, 3. Premier requires commitment from the municipalities. 4. VESTA Service Provider must also be summoned to the meeting. 5. Submit all statements on all Provincial Departments owing Municipalities 6. Premier ordered for a meeting on 23 October 2017		

7. CLOSURE

The Chairperson thanked all members who attended the meeting. The meeting was adjourned at 12:30.

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Enquiries :
Ref :

BRIEF TO HONOURABLE MEC ON THABA CHWEU

MUNICIPAL CASH FLOW STATUS AT 23 OCTOBER 2017

Reference is made to the visit made to the municipality on 23 October 2017, in response to a distress call by the municipality, concerning the cashflow status.

Following the interaction between the Province and Thaba Chweu Municipality a Team from Provincial Treasury visited the municipality to conduct a detail assessment of the financial status and the financial management of Thaba Chweu Municipality. The Team from Provincial Treasury met with the CFO, the assistant revenue and assistant budget manager at the Municipality. Information was collected from the financial system. The information collected from the municipality included:

Electronic Debtor monthly reconciliations
Electronic creditor payment report
Bank Statements
Pre-Paid electricity sales
Bank recon's
Debtor age analysis
Monthly General Ledger
Cashbook
Conditional Grant Reconciliations
2016/17 Electronic AFS

The following is a breakdown of the financial status of the municipality

CASH FLOW ANALYSIS FOR THABA CHWEU MUNICIPALITY					
ITEM DESCRIPTION	As at 31 July 2017	As at 30 August 2017	As at September 2017	As at October 2017	Projection to 30 June 2018
Opening bank Balance	2 686 874.00	12 879 184.17	11 441 587.64	-2 803 047.16	-24 029 245.78
Cash on hand as at					
Investments	18 463 443.00				
Receipts on income	18 194 655.87	23 189 264.01	23 494 965.95	21 626 295.28	173 010 362.20
Total Equitable Share Received to date	51 831 000.00				76 616 000.00
Total	**91 175 972.87**	**36 068 448.18**	**34 936 553.59**	**18 823 248.11**	**225 597 116.42**
Expenditure	**78 296 788.70**	**24 626 860.54**	**37 739 600.75**	**42 852 493.89**	**342 819 951.12**
Employee related costs & Rem of Councillors	18 761 112.85	17 621 794.62	14 860 774.27	17 081 227.25	136 649 817.97
Finance charges	350 830.70	40 839.14	37 712.02	39 275.58	314 204.64
Bulk purchases - Electricity	33 398 544.99	342 088.54	14 879 538.77	12 275 319.70	98 202 557.60
Contracted services	8 780 567.59	2 938 439.82	1 836 101.19	4 518 369.53	36 146 956.27
Other expenditure	17 005 732.57	3 683 698.42	6 125 474.50	8 938 301.83	71 506 414.64
Net Position	12 879 184.17	11 441 587.64	-2 803 047.16	-24 029 245.78	-117 222 834.70

It is to be noted that the expenditure for July 2017 amounts to R78 million this is because of the cash available from equitable share that was received. This enabled the municipality to pay for expenditure plus arrear ESKOM instalment. The following months shows a decline in expenditure but this is due to insufficient funds to pay for all creditors. The reality is that the expenditure should also be R78 million.

Analysis

Receipts:

Equitable share constitutes 23 percent of the total income and the rest from the municipal services. The municipality is collecting 73% of the billed revenue, emanating mainly from services and rates. Illegal electricity and water connections are the main reasons for distribution losses.

Working capital:

Based on the analysis above, the municipality will not be able to meet the statutory and contractual obligations as highlighted by the current net negative cash flow balances of R3 Million, and projected negative cash flow balance of R24 million for October 2017. This further deteriorate to a forecasted negative cash flow balance of R117 million by the end of the financial year. The equitable share and other operational grants allocation balance of R77 million will be received in November 2017 and March 2018 respectively if not withheld from National Treasury. However robust cost containment need to be implemented to correlate the actual revenue being generated by the municipality, to maintain their operations.

Despite the above negative position, the municipality has a total of R448million worth of creditors outstanding as at 25 October 2017. This put a further strain on the liquidity position. The MFMA Section 65 states that payments to creditors must be made within 30working days but according to the aging a total of R16 million creditors are within 30 days period and the rest of R432 million are over the 30 days period.

Government Debt

Name of Department	Total amount outstanding	0-30 Days	30 - 60 Days	60 -90 Days	90 Days and over	Payments received for the month Sept 2017
Office of Premier	-	-	-	-	-	
Finance	-	-	-	-	-	
Cooperative Governance and Traditional Affairs	-	-	-	-	-	
Agriculture,Rural Development Land and Environ	-	-	-	-	-	-
Economic Development and Tourism	-	-	-	-	-	
Education	1 083 174.06	395 115.03	256 523.61	223 736.94	207 798.48	250 655.79
Public Works,Roads and Transport	4 169 954.46	23 884.60	21 761.19	21 884.00	4 102 424.67	6 178 115.37
Community Safety Security and Liaison	-	-	-	-	-	
Health	57 393.84	42 578.42	9 612.96	2 981.87	2 220.59	176 745.31
Culture Sport and Recreation	-					
Social Development	106 839.37	1 356.13	21 662.00	2 278.56	81 542.68	2 892.07
Human Settlements	-	-	-	-	-	
Sub Total	5 417 361.73	462 934.18	309 559.76	250 881.37	4 393 986.42	6 608 408.54
SANPARKS(Kruger National Park)	-	-	-	-	-	-
National Department of Public Works	8 212 718.15	7 187 782.41	94 355.44	38 098.66	892 481.64	1 997 416.78
National Department of Rural Development and Land Reform	2 221 988.56	125 954.29	126 970.43	1 032 191.97	936 871.87	261 903.16
Sub Total	10 434 706.71	7 313 736.70	221 325.87	1 070 290.63	1 829 353.51	2 259 319.94
Total	15 852 068.44	7 776 670.88	530 885.63	1 321 172.00	6 223 339.93	8 867 728.48

Mpumalanga provincial departments owes the municipality R5.4 million and National departments owes R10.4 million. These monies owed by sector departments is putting the municipality's cash flow under severe constrain. Billing is done on monthly basis and any challenges with accounts are discussed at Government debt Forum meetings. Provincial

Treasury engaged with Thaba Chweu Local Municipality and confirmations of payments of all accounts were provided.

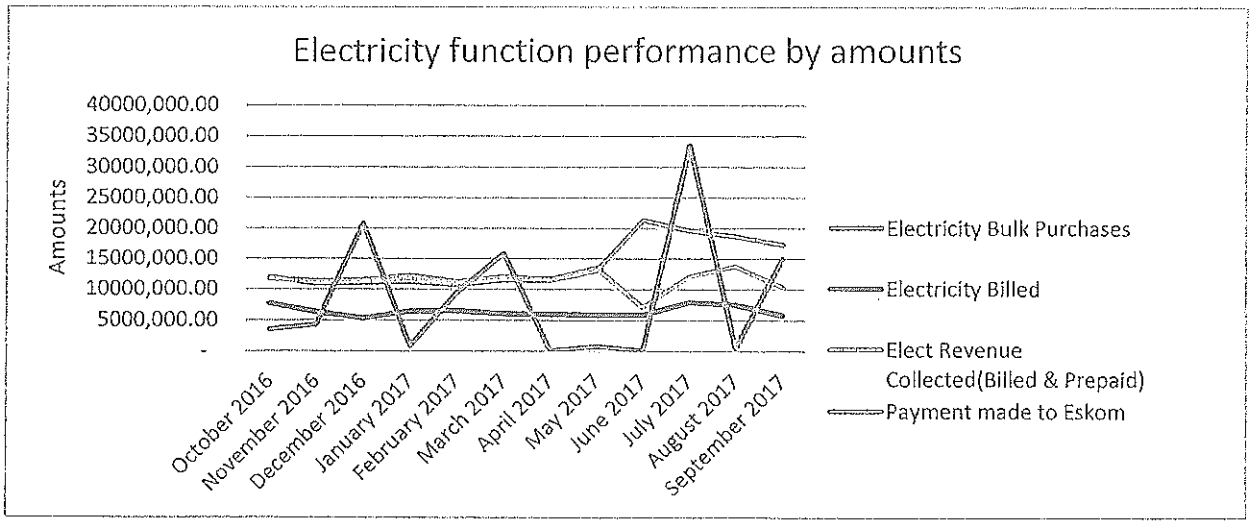
Contributing factors to the Cash Flow situation

Electricity Management

Electricity management in the municipality is not effective. The concerning fact is that the municipality is only billing on average 65% of purchased kw/h to consumers. The contributing factors are as follows:

- Unmetered usage by consumers
- Electricity theft
- Tampering of electricity meters

Electricity Purchace vs Sales R- Value				
Period	Electricity Bulk Purchases	Electricity Billed	Elect Revenue Collected(Billed & Prepaid)	Payment made to Eskom
October 2016	11 881 540.69	7 601 008.48	11 542 343.54	3 363 678.65
November 2016	10 789 451.26	6 187 714.56	11 203 261.11	4 210 422.94
December 2016	10 921 956.91	5 201 221.93	11 329 516.51	20 638 241.36
January 2017	11 084 042.91	6 309 099.37	12 134 942.78	674 588.45
February 2017	10 510 182.66	6 425 588.20	11 080 392.60	9 298 324.09
March 2017	11 376 558.76	5 957 601.51	11 892 598.77	15 726 000.28
April 2017	11 336 726.00	5 897 716.97	11 513 850.66	-
May 2017	13 020 372.73	5 753 558.23	13 320 821.67	659 874.41
June 2017	21 157 613.86	5 753 558.23	6 923 275.68	-
July 2017	19 406 321.90	7 774 155.75	11 949 834.84	33 398 544.99
August 2017	18 486 064.71	7 380 950.19	13 582 254.30	342 088.54
September 2017	17 187 241.80	5 686 333.08	10 239 984.12	14 879 538.77
Total	222 251 854.51	91 965 268.29	174 913 172.77	150 004 906.89

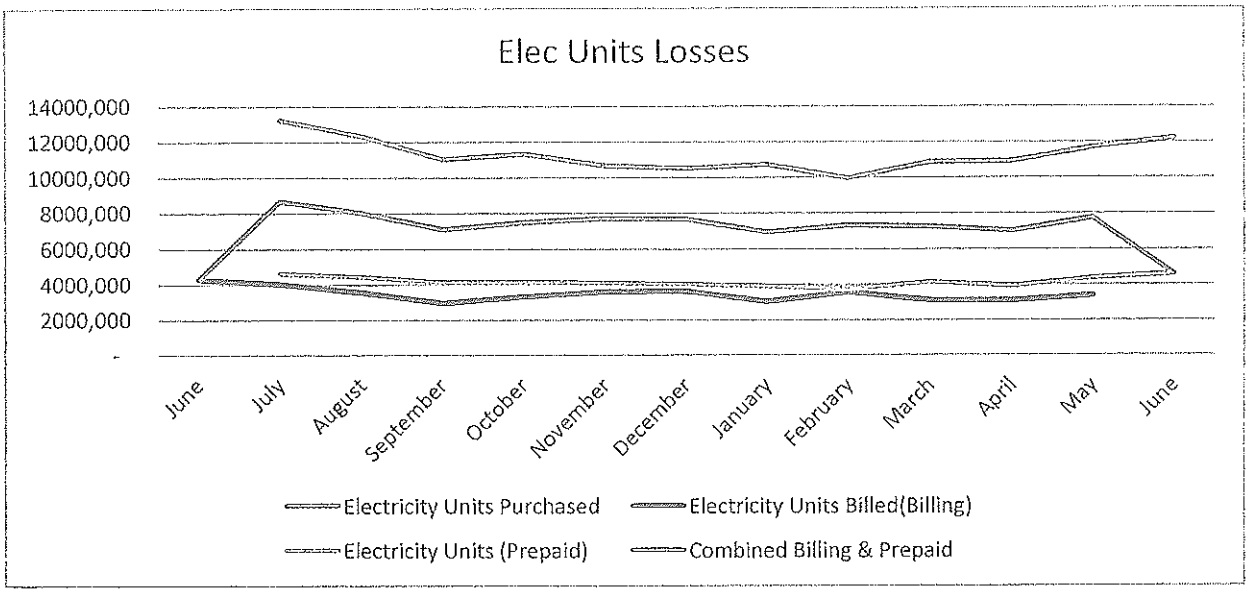


Over a period of the last twelve months the municipality purchased electricity the amount of R222 millions of which only R174 million of revenue was collected through sales of electricity. From the collected electricity of R174 million only R150 million was paid to Eskom. R24million of the electricity revenue was utilised for municipal operating expenditure.

The assessment of the electricity distribution losses indicated serious losses of R48 million over a period of 12 months. The assessment clearly display that inadequate tariffs is not necessarily the problem, but rather the inability to bill all users, manage tampering and prevent theft.

Illustration of distribution losses in electricity unit.

Electricity Units					
Period	Electricity Units Purchased	Electricity Units Billed(Billing)	Electricity Units (Prepaid)	Combined Billing & Prepaid	Under / Over
June2016		4 302 206		4 302 206	
July2016	13 213 290	4 050 773	4 631 446	8 682 219	4 531 071
August2016	12 299 104	3 574 343	4 451 236	8 025 579	4 273 525
September2016	11 017 391	2 972 408	4 132 781	7 105 189	3 912 202
October2016	11 327 655	3 338 848	4 152 026	7 490 874	3 836 781
November2016	10 650 183	3 604 653	4 107 917	7 712 570	2 937 613
December2016	10 497 280	3 638 817	4 033 518	7 672 335	2 824 945
January2017	10 705 633	3 041 425	3 908 276	6 949 701	3 755 932
February2017	9 938 711	3 572 009	3 747 615	7 319 624	2 619 087
March2017	10 854 217	3 112 929	4 133 447	7 246 376	3 607 841
April2017	10 900 111	3 099 474	3 910 281	7 009 755	3 890 356
May2017	11 661 643	3 389 518	4 353 934	7 743 452	3 918 191
June2017	12 184 088		4 594 825	4 594 825	7 589 263



In the light of the above analysis it is clear that the municipality are trading electricity at a loss and is currently not recovering the bulk cost of electricity from consumers. The municipality provided electricity over the last twelve months at a average kw/h loss of 35%. It can therefore be assumed that electricity is subsidised by other services in the municipality.

Over Statement of Income Budget

The municipal revenue, especially on the services does not reflect reality on the ground as seen by actual revenue collected being less than the budgeted cash inflow. The projected shortfall on cash flow position stands at R155million, which would need to be reduced on the actual expenditure if the municipality is to remain solvent. This cements the need for the cost containment to ensure that expenditure is no longer based on the budget, but on municipal

Cash flow performance. The table below shows the cash budget for the year against the projected cash flow based on the first quarter performance of the municipality.

R thousand	MTREF Budget Year 2017/18	Actual July - Sept 2017	Forecast 30/06/2018 R	Budget & Forecast Diff R	Variance %
Cash Receipts: Operational					
Property rates	96 722 988.00	12 598 394.82	50 393 579.28	46 329 408.72	-47.90%
Service charges - electricity revenue	186 343 961.39	37 960 365.55	151 841 462.18	34 502 499.21	-18.52%
Service charges - water revenue	50 259 370.61	7 928 849.48	31 715 397.92	18 543 972.69	-36.90%
Service charges - sanitation revenue	17 787 623.77	3 128 235.80	12 512 943.20	5 274 680.57	-29.65%
Service charges - refuse revenue	21 911 772.31	3 145 820.42	12 583 281.68	9 328 490.63	-42.57%
Service charges - other	52 370.06	-	-		
Rental of facilities and equipment	3 225 010.63	117 219.76	468 879.04	2 756 131.59	-85.46%
Interest earned - external investments	1 700 280.58	-	-	1 700 280.58	-100.00%
Interest earned - outstanding debtors	17 495 887.54	-	-	17 495 887.54	-100.00%
Dividends received	-	-	-		
Fines, penalties and forfeits	1 853 472.99	-	-	1 853 472.99	-100.00%
Licences and permits	-	-	-	-	
Agency services	-	-	-	-	
Transfer receipts - operational	128 447 000.00	51 831 000.00	128 447 000.00	-	0.00%
Other revenue	17 832 523.96	-	-	17 832 523.96	-100.00%
Cash Receipts by Source	543 632 261.84	116 709 885.83	387 962 543.30	155 617 348.48	-28.63%

Expenditure

The compensation of employees constitutes 45% of the total municipal actual expenditure, despite the budgeted percentage of 26%. This may be due to reduced expenditure due to cash flow challenges. An area of concern is the Travel and Accommodation, which increased from R91 964 in July 2017 to R400 554 in September 2017.

Contractual obligations of the municipality constitute 9% of the total operational expenses. (Security services, Information technology, Insurance, phone rental and machine rental.)

A total of R51million was received in respect of Equitable Share, which was fully utilised. The expenditure for July 2017 of R78 million is a direct outflow of the EQ share received. This is an indication of the actual monthly expenditure if cash flow situation allows.

Operational issues

The control environment need to be improved in the procurement process of as and when transactions due to their frequency and increasing expenditure. Control measures should be reinstated to control fuel expenditure of R 129 thousand per month.

Payment of electricity bulk purchases for the remaining months is a huge challenge and the payment of arrear ESKOM account is not possible as the municipality monthly income is less than the Eskom monthly current account.

SUMMARY OF FINDINGS:

1. The following is a summary of key issues which have been highlighted during the engagement:

a. **Revenue management** – One of the key observations from the engagements with the municipality indicated that poor revenue management has meant that payment due to creditors far exceeds the revenue collected (including transfers). Credit controls policies are not effectively implemented as required by the MFMA. It is essential that the start implementing these policies on defaulting households and institutions, including national and provincial departments in order to improve their revenue collection. The Municipality should start to prioritise the implementation of the developed revenue management strategies to enhance revenue and improve collections. It is now more critical than before to reconcile the deeds office data with the valuation roll and further reconcile valuation roll with category of users and the tariff structures. The tariff structure in itself does not come over to be a challenge, but the inability to bill all users.

b. **Reporting** – The Municipality is found to be overstating the debtor's figures and understating their creditor's figures. Data reported through Section 71 reports is misleading and gives an inaccurate reflection of the financial state of the municipality.

c. **Unfunded budget** – The municipality is currently under performing with regard to the collection of budgeted revenew. At this stage it is forcasted that the municipality will under collect revenue to the amount of R155 million. It is observed that past repayments agreements entered into by the municipality were not affordable and realistic and was signed for compliance. The Municipal budget is not funded, unreliable and not sustainable over the medium term and the creditor obligations are not factored into the budget. The payment of both current and arrear accounts for Eskom revolve round the equitable share payment schedule and this has led to increasing interest payments.

d. **High operating costs** – It is also observed that the municipality has extremely high operating costs and in particular, above normal staff costs, which implies that a large part of the equitable share is being utilised to pay salaries and not directly towards service delivery.

e. **Poor administrative leadership as well as weak council oversight** – The municipality continued to accumulate debt and remain indebted to creditors, especially service delivery creditors while it appears the Council is unaware of this. In turn the municipality also has high levels of debtors made up of households, businesses and governments bodies.

f. The municipalities did develop a financial recovery plan, but this has not been successfully implemented.

g. **Poor credit control** – The municipality cited their poor socio-economic profile as a reason for their non-payment notwithstanding that the LGES aims to cater for the needs of municipalities' poor households. Most worryingly, municipalities are not collecting from their own debtors who include businesses and government departments.

h. **Tariff setting** – The increases set by the municipality is not in always in line with their rising costs and bulk cost increases. This remains a challenge as the tariffs are approved by NERSA. The municipality can however make a profit on electricity if all users of electricity are billed, which is not the case in Thaba Chweu Municipality. The municipality is also not making use of sliding block tariffs (for both water and electricity) which would assist in revenue generation, demand management and with cross-subsidisation of poorer households.

i. **Technical and virtual losses** – there are high levels of water and electricity losses, which have reduced the municipality' revenue dramatically. This has been driven by physical/technical losses as well as billing and metering inaccuracies and theft. It has been observed that the municipality is supplying electricity to thousands of households where the supply is simply not metered.

j. **Assets Ownership** – The municipality does own the electricity infrastructure, but the poor cash flow situation is currently preventing scheduled repairs and maintenance. This contributes to further distribution losses and unnecessary depreciation of the

assets to an extent that these assets start to become a liability. The municipality does have the following Infrustracture assets as reported in the 2016/17 AFS.

Description	Opening balance	Additions	Disposals	Transfers		Depreciation	Impairment Loss	Total
Infrastructure	1 787 122 098			37 541 726		-110 106 016	-407 273,00	1 714 150 535

The breakdown of the assets to determine the value of the electricity infrastructure assets must still be done. This is needed to determine the value of the assets to be used as a trade off against the outstanding eskom Debt should the municipality deside to hand back the distribution lisence to Eskom.

Recommendations:

The following are the recommendations made to the municipality	Responsible party	Due Date
• Credit controls policies should be reviewed for effectiveness.	Municipality PT Treasury	March 2018 March 2018
• Implementation of the credit control policies should be prioritised, starting with business sector.	Municipality	Nov 2017
• Prioritise the implementation of the developed revenue management strategies to enhance revenue and improve collections.	Municipality	Nov 2017
• Reconciliation must be performed on the deeds office data with the valuation roll and further reconcile valuation roll with category of users and the tariff structures.	Municipality	Dec 2017
• Prioritise the repairing of water meters during the adjustment budget and next year's budget process (2018/2019).	Municipality	Jan 2018
• Operational expenditure must be reduced during the mid-year budget review, with R155 million due to under collection of budgeted revenue.	Municipality	Jan 2018
• Municipality must refrain from overstating debtors and be more realistic when it comes to recoverable debt by focussing on debtors less	Municipality	Nov 2017

than 90 days outstanding. • Implement strict cost containing measures to reduce the operational expenditure. • Municipality to put more control over travel and subsistence expenditure. • Review the IT related expenditure and ensure value for money. • Review all SLA's in ensuring they are performance based.	Municipality Municipality Municipality Municipality	Nov 2017 Nov 2017 Nov 2017 Dec 2017
• A close working relationship must be fostered between Budget and Treasury and Technical department in resolving faulty meters. • Revenue enhancement initiatives must be escalated to Council and request assistance in educating the communities in settling their debt. • Municipality to consider policy changes to allow the municipality to have one account per property. Phase out tenants account and remain with owner accounts only. • The municipality must establish Cash Management committee who will sit on a weekly basis to prioritise orders and other financial commitments in line with available cash.	Municipality Municipality Municipality Municipality	Nov 2017 Dec 2017 Nov 2017 Nov 2017
• The municipality should investigate immediately the possibility to hand back the electricity licence to ESKOM. • The municipality to consider exchanging their Eskom Debt for the electricity infrastructure assets and electricity debtor's book.	Municipality Municipality	Jan 2018 Jan 2018

Mr B Strauss
Acting Program Coordinator
04/11/2017

Eskom	Meeting Minutes / Action Items	Document Identifier	240-54076329	Rev	6
		Effective Date	1 October 2016		
		Next review date	October 2019		
		Distribution			

MEETING WITH THABA CHWEU LOCAL MUNICIPALITY REGARDING REPAYMENT PROPOSAL			
Date:	Time:	Venue:	Meeting No:
12 December 2017	11:00	Eskom, Orion Boardroom, 28 Ferreira Street, Nelspruit	02/2017

Item	Subject	Decision and Action Items	Responsibility	Target date
1.	Opening and Welcome	The Chairperson welcomed everyone to the meeting. **Present:** Chris Lekhuleni – Eskom – Middle Manager Key Accounts - Eskom Patrick Kgoale – Municipal Manager – Thaba Chweu Peter Mankga – Manager of the MM's Office – Thaba Chweu Kenny Mulaudza – Corporate – Thaba Chweu Lesley Mokwena – CFO – Thaba Chweu Sindiswa Mathebula –Local Economic Development – Thaba Chweu Nomsa Mlotshwa – Housing Development Agency (HDA) Velaphi Kgaria – Snr Advisor - Eskom Allison Kuchenbecker – Secretary - Eskom		
2.	Safety and Emergency Evacuation Procedure	The evacuation procedure was explained to everybody in the event of an emergency.	All	

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Item	Subject	Decision and Action Items	Responsibility	Target date
3.	Presentation by HDA	3.1 Mr Kgoale, the Municipal Manager of Thaba Chweu Municipality told the delegates that they are under pressure to have the disconnections suspended during Festive Season and therefore request a bit of leeway. 3.2 The Chairman stated that the payment of R15 M made by the Municipality, only covers the current account and Thaba Chweu is not the only Municipality being disconnected in December 2018. 3.3 Presentation by Housing Development Agency – Nomsa Mlotshwa: 3.3.1 Thaba Chweu Municipality approached HDA to assist them in obtaining a viable option and long term solution to addressing their outstanding Eskom debts. 3.3.2 There is a portfolio of 3000 properties which can be sold and HDA has already obtained evaluations (3 Evaluators per property) for properties which are ready to be disposed of. 3.3.3 The value of the properties were compared to Eskom debts and HDA want to start in January 2018 with the selling off. 3.3.4 There are houses that have everything place but they are waiting for evaluations as some properties are invaded.		

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Item	Subject	Decision and Action Items	Responsibility	Target date
3.	Presentation by HDA cont.	3.3.5 Two processes will be run and will concentrate on the Municipalities historic debt thus enabling them to pay their current accounts. 3.3.6 The proposal is that in the first year 500 rate payers will be introduced and this amount will increase every year until 10 000 by year 10. There is also a long term development of 13 000 units as well as the Mine who will take 300 Units. This in turn will also increase the Municipality's revenue base. 3.3.7 Smart meters will be installed and all current houses will be converted to Prepaid. 3.3.8 The current account will be delinked from the Smart Meter project so that the monies obtained can be paid into Eskom's account. 3.3.9 The first sale of property should be made by the end of January 2018 by which they can pay Eskom R40 M and R30 M latest by end March 2018. The value of the properties are estimated at R600 M. 3.3.10 HDA has been given power of attorney and money will go direct to HDA. The properties will be managed by a neutral party. Thaba Chweu Municipality and the HDA commit to pay this money to Eskom. 3.3.11 Taking the above into account, Thaba Chweu Municipality requests extension till March 2018 when the first payment can be made.		

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Item	Subject	Decision and Action Items	Responsibility	Target date
4.	Issues raised	4.1 Eskom requires an upfront amount of R70 M and can the HDA provide half of this and the Municipality the other half, in order to suspend the current supply interruptions? 4.2 HDA request time till the end of January 2018 to be able to do the first payment on the arrears. 4.3 Eskom: The Municipality must agree to honor all current their accounts as well as the upfront amount. The Repayment plan will kept for 4 years. 4.4 Eskom requires a Bank Guarantee of ± R70M from Thaba Chweu Municipality. 4.5 HDA has partnered with Standard Bank and will have a meeting with them on Monday to discuss. 4.6 Eskom: On receipt of the valuation report of the properties, Thaba Chweu Municipality can request the bank for a guarantee as the Land Portfolio is more than sufficient to cover it. 4.7 HDA: Some properties are ready and people are willing to make an offer but this takes time as the banks need to approve loans. They therefore need time till March 2018. 4.8 Eskom: the Memorandum of Understanding between Thaba Chweu and the HDA cannot be seen as a guarantee. A Guarantee from the bank must be provided. 4.9 Eskom requires a copy of the council resolution so that the Chairman can take it up with the Treasury Department and his principals.		

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Item	Subject	Decision and Action Items	Responsibility	Target date
4.	Issues raised Cont.	4.10 If a guarantee cannot be provided by Thaba Chweu, an upfront payment can be made before Eskom will consider the suspension of the disconnections. 4.11 HDA: They can raise R40M in January 2018 instead of a guarantee as the project of R300 M is exclusively for Eskom. 4.12 Thaba Chweu Municipality once again asks Eskom does not disconnect during the festive season and Eskom reiterates that they will only consider it once the upfront amount is paid as requested. 4.13 Eskom: Thaba Chweu Municipality to look at properties that will cover the requested upfront payment and release them to the market as per the council resolution. 4.14 Peter Mankga to send a copy of the letter of the council resolution to the Chairman.		
5.	Way Forward	5.1 Thaba Chweu Municipality and the Housing Development Agency to discuss their request further.		

Signed as a correct record: _____ Chairman 14/12/2017 Date

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MUNICIPAL FINANCE IMPROVEMENT

ADVISOR INCEPTION MEETING

NATIONAL TREASURY

national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

CONTENT

- MFIP - Programme Logic
- MFIP - Support Modalities and Approach
- MFIP - Programme Conditionalities
- MFIP - Proposed Provincial Support Plan
- MFIP - Preparation of the Support Plan
- MFIP - Reporting requirements
- MFIP - MFIP II – Preparation of the Support plan
- MFIP - Reporting requirements
- MFIP - Focus on capacity building (MFIP Advisor)

MFIP Programmatic Logic

- Municipalities experiencing numerous weaknesses i.e. poor human resource management, inadequate planning and engineering skills, weak oversight structures and ineffective financial management processes and procedures.
- A Municipal Support and Capacity building programme must be pro-active with clear distinction between formal interventions and informal capacity building and support interventions.
- MFIP is based on a collective agreement by all stakeholders and assistance to municipalities and provincial treasuries supported by Support Plan setting out roles and responsibilities.
- MFIP directed towards achieving improvement in performance objectives as per legislative and regulatory framework and not purely a compliance assessment.

MFIP Programmatic Logic (Cont.)

- MFIP is based on three specific informal intervention structures:
  - Direct capacity support to provincial treasuries(PTs)
  - Direct capacity support to identified municipalities through long-term advisors and short term specialists
    - Specialist focus on:
      - Budget Planning, Implementation and Monitoring;
      - Audit
      - Asset Management
      - Financial Management Capability Maturity Model (FMCMM)
      - Knowledge Management
      - Learning Management
      - Municipal Financial Recovery Services(MFRS)
      - Revenue Management
      - Supply Chain Management
  - Rapid response assistance to municipalities identified as being at risk of experiencing a financial crisis.
- Each situation dealt with according to outcome of detailed formal assessment utilizing existing tools.
- All MFIP Projects will be clearly defined in terms of project duration, resource allocation, roles and responsibilities of all stakeholders, objectives, and project close-out.
- Important that municipalities and PTs, as autonomous entities, be held accountable for the successes or failures achieved through MFIP.

Support Modalities and Approach

- MFIP support modalities guided by following principles:
  - Participatory and consultative;
  - Progressive collaboration;
  - Efficiency and effectiveness;
  - Integration; and
  - Capacity building and skills transfer.
- Overall programme objectives of MFIP to incorporate the various dimensions of the municipal accountability cycle: from strategic planning, budgeting, in-year implementation and compilation, AFS, Annual Reporting, Asset Management and SCM.
- Respective PT's to take full ownership of monitoring, oversight and support mandate with regard to delegated municipalities.
- MFIP Phase I and II clearly indicated that as the programme impacted on the institutional matters, technical impacts were exponential - this can only be achieved once the municipality is fully capacitated with capable finance officials who are well led and motivated to work within a positive culture where a BTO is designed to achieve the MFMA requirements.
- MFIP to continue to place emphasis on Institutional matters as well as the Technical reforms.

Programme Conditionalities for PTs

- **Provincial Treasuries**
  - MFIP is a pro-active informal intervention and technical support programme where certain pre-conditions and Conditionalities for support are applicable:
    - The position of MFMA Coordinator must be filled before the commencement of support. If this positions become vacant during support, it must be filled within three (3) months;
    - Approval of the PT Support Plan by the HOD (within one (1) month of Advisor commencement);
    - Completion of a review of all MFMA activities to examine work and capacitation issues – to be provided to the NT for review within one month of Advisor commencement;
    - If positions are not filled, adoption of a formal plan of recruitment for key MFM positions (within three months of Advisor commencement), including other MFM officials;
    - Review with recommendations of formal strategy of capacity building and development of all MFM officials in the MFMA Coordination Unit and others with MFMA responsibilities (within 4 months of Advisor commencement); and
    - Initiate a review of PT delegations as they relate to MFMA activities and assist where required, draft delegations as it relates to the Municipal Finance Governance unit.

Proposed Provincial Support Plan

The following are the institutional and technical components included in the Provincial Support Plan:

Institutional Matters	Technical Matters
MFMA Support Plan	Revenue Management
MFMA Coordination	Cash Management, Banking, Grants and Investments
PT MFMA Internal Systems of Delegations	Municipal Budgets
Consultation over annual performance Plan	Accounting , GRAP & Reporting
Municipal Mergers	End of year reporting
IGR and Governance	Annual reporting
Powers, Functions and Delegations	Expenditure Management
	Asset and Liability Management
	Supply Chain Management
	Contract Management
	Uniform Norms and Ratios

Programme Conditionalities for Municipalities

- **Municipalities**
  - Although MFIP is pro-active informal intervention and technical support programme certain pre-conditions and Conditionalities for support are applicable:
    - Position of CFO and MM must be filled prior to support. If positions becomes vacant during support, it must be filled within 3 months;
    - Establishment and effective operations of MFMA Steering Committee consisting of Mayor, Councillor responsible for finance, MM, CFO and Advisor within 1 month of commencement of support. Meetings convened at least monthly.
    - Adoption of Support Plan by Council with Council Resolution to this effect within 1 month of commencement of support.
    - Adoption of formal Recruitment Plan to ensure all vacancies in BTO and IA are filled within 4 months of commencement of support;
    - Adoption of formal capacity building strategy for all BTO and IA officials within 2 months of commencement of support;
    - Adoption of reviewed System of Delegations, including sub-delegations, within 2 months of commencement of support; and
    - Adoption of SCOA implementation plan.

Proposed Municipal Support Plan

The following is the proposed institutional and technical components to be included in the municipal Support Plan

Institutional Matters	Technical Matters
A Council approved MFMA Implementation Plan	Budgeting and financial planning
Establishment and effective operation of a MFMA Steering Committee	Accounting, GRAP and reporting (including in-year reporting and monitoring
A review of the BTO and Internal Audit (IA) organogram	Revenue Management
Recruitment and retention of BTO and IA officials	Cash, banking, investment and borrowings
Development of training and development plans for BTO and IA Officials	Expenditure Management
Recruitment and retention of five financial management interns	Supply Chain Management (including contract management)
Development of rotational work-plans for finance management interns as necessary	Asset Management
Staff development on financial management related matters	
Review and adoption of MFMA delegations.	

MFIP Preparation of the Support Plan

- Immediately upon commencement of duties at the municipality/PT, the Advisor will assist the Municipal Manager, Chief Financial Officer or HOD and MFMA Coordinator to confirm the Support Plan content, considering the outcome of the PMU diagnostic assessment/Provincial Strategy, and return to the NT for final endorsement.
- The Municipal Manager, Chief Financial Officer and Advisor should then sign off the Support Plan and return to the NT, for the signature of the Chief Director: Capacity Building as MFIP Administrator, and the MFIP Programme Manager.
- In the case of PT, the HOD, MFMA Coordinator and Advisor should then sign off the Support Plan and return to the NT, for the signature of the Chief Director: Capacity Building as MFIP Administrator, and the Head MFIP Programme;
- A copy of the signed Support Plan will be provided to the municipality and the Provincial Treasury for its records.
- The signed Support Plan must be tabled in Council at the first council meeting after signed-off by NT for its adoption, and a copy of the resolution must be provided to the NT, once adopted.
- No amendments may be made to the signed Support Plan without the approval of the NT, in writing

MFIP – Reporting requirements

- Advisor to submit weekly timesheet to NT PMU every Monday by 12:00
- Submit Monthly reports to NT and copied to the PT by the third working day of the month
- Report to be signed off by MM and CFO or MFMA Coordinator and Director within the PT
- It should be noted that the sign off should not be seen as a compliance but its certify that the person signing is agreed to the contents in report
- The main focus of MFIP is to build capacity therefore LTA will work with the CFO to build the capacity and capability of the respective municipal Budget and Treasury Office officials

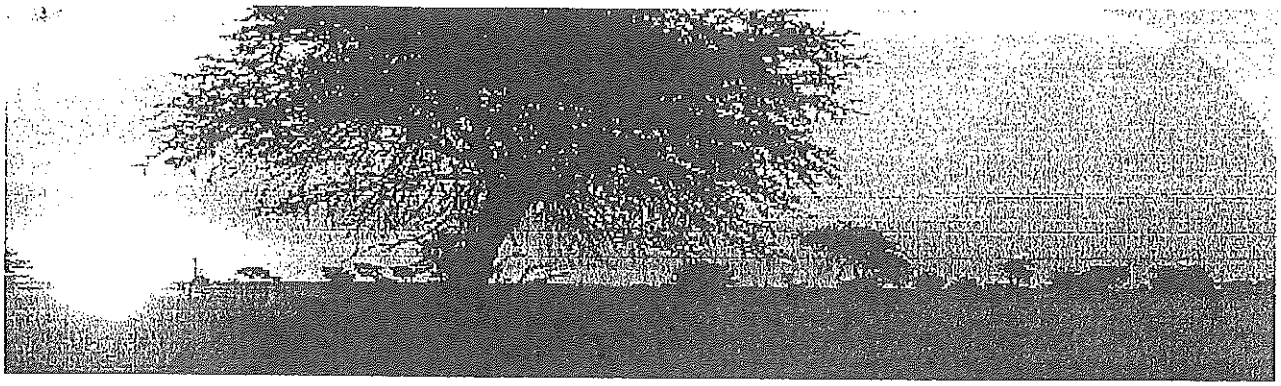
Focus on Capacity Building (role of the Advisor)

- The MFIP Advisor is not there to fill any vacancy in the BTO but is there to capacitate, guide and assist existing officials and improving the implementation of the Local Government Financial Management Reforms
- The Programme Management and Reporting
- Regulatory, policy, governance frameworks - strategic, tactical, operational advice
- Financial Management
- Skills development and capacity building
- Knowledge Management

MFIP

Thank You for your support of MFIP

national treasury
Department:
National Treasury
REPUBLIC OF SOUTH AFRICA



01 March 2017 | MEDIA STATEMENT

PREMIER MABUZA DEMANDS SUSTAINABLE LASTING SOLUTIONS IN PAYING ESKOM DEBT BY OWING MUNICIPALITIES

Mpumalanga Premier David Mabuza has dismissed the "quick-fix" agreements entered into by the municipalities and the electricity public utility Company, but demanded sustainable long-term solutions in paying the overdue Eskom debt.

Speaking at a meeting today [Wednesday, 01 March 2017] in Mbombela, attended by Cooperative Governance and Traditional Affairs [COGTA] Minister Des Van Rooyen, COGTA MEC Refilwe Mtsweni, Eskom management as well as Msukaligwa and Emalahleni municipalities, Premier Mabuza rejected the agreements on the payment arrangements by the two municipalities, saying they were no sustainable.

The payment arrangements are subject to Eskom board's approval of the issues the municipalities have raised such as proposing the rationalization of municipal tariffs to reduce tariff options, decreasing of the interest rates charged on overdue balances from prime plus 5 percent to prime plus 2.5 percent.

Further, Eskom is requested to change its payment period on municipal bulk accounts from 15 days to 30 days, and that Eskom will change its payment allocation policy to allocate payments to capital first then interests. Eskom is also expected to allow municipalities to pay connection charges over a 20-year period at relevant interest rate of cash up front.

"I am aware that there have been engagements and agreements between our owing municipalities and Eskom. I am not going to agree on these agreements, and I am not going to stand surety to step in when they renege on the commitments, they have been so many of these agreements and I don't know how many times these municipalities have defaulted.

"I don't have trust on them with regards to settling the Eskom debt. Just before they went to the councils after the elections, I spoke to them about this, and four months down the line we are here. I don't know why I should keep certain people in their jobs because someone didn't do his or her job. This quick-fix thing won't help; our municipalities do not have the capacity to sell electricity and to collect revenue," said Premier Mabuza.

He said the municipalities should settle the debt and consider handing back to Eskom the function of selling electricity.
Some of the payment plans by the two municipalities include utilizing the equitable share, as well as selling some of their properties in an effort to raise more money to pay the Eskom debt. He said the equitable share was not meant to settle the Eskom bill only, but to deal with other services rendered by the municipalities.

"I want a sustainable solution, let us introduce a culture of paying for the services, we need to improve our billing systems as well as our revenue collection capacity. We cannot afford to sell the land, which we would probably buy it back at an expensive amount at a later stage when we need to settle our people.

"This problem is just a tip of an iceberg, if there are already available mechanism, let us go for it, we do not have the

luxury of time to be testing solutions. We need to find a realistic way, and say how much can we afford, and how much can we pay.

"We want something tangible so that when we turn our backs taking different ways, we should not hear anything from the two municipalities that would cause headache for all of us," said Mabuza.

Minister Van Rooyen appreciated Eskom for agreeing in principle to consider the issues raised by the municipalities adding that it was unfortunate that municipalities were now only focusing on the payment arrangements whereas there were many other big problems that faced them.

The Premier has since called another meeting on Tuesday next week [07 March 2017] where municipalities are expected to explain to Eskom their source of funding and how they would honour their payment arrangements.

ENDS...

Issued by Zibonele Mncwango
Spokesperson: Mpumalanga Premier
Mpumalanga Provincial Government
Office of the Premier
Tel: (013) 766 – 2453
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"ND4"

Mr S Williams
CA JV (PTY) LTD
Project Manager
45 Marloth Street
MBOMBELA
1200

Dear Mr Williams

RE: COETZEE AND OTHERS VS THE PREMIER AND OTHERS (EMALAHLENI LOCAL MUNICIPALITY) CASE NO 2799/2017 MIDDLEBURG HIGH COURT THERE IS ALSO AN URGENT APPLICATION IN THE PTA HIGH COURT CASE NUMBER 83581/2017 AND RESILIENT PROPERTIES AND OTHERS VS ESKOM AND OTHERS (EMALAHLENI LOCAL MUNICIPALITY) URGENT APPLICATION CASE NO 83581/2017 PTA HIGH COURT AND SABIE CHAMBER OF COMMERCE AND OTHERS VS THABA CHWEU LOCAL MUNICIPALITY AND OTHERS URGENT APPLICATION CASE NO 2295/2017 MBOMBELA HIGH COURT

Your letter dated 17 January 218 refers

In response to your appraisal on the said matter we accept the proposal recorded by CAJV to expedite and support a favorable outcome. We have endorsed and acted upon the recommendation to take all reasonable steps to ensure that we avert electricity cuts by ESKOM.

Approval for the immediate activities as mandatory interventions through my office to support all legal representation with reliable and valid evidence and reporting as submissions to the court is hereby endorsed.With your services we will:

1. Take all necessary steps to formulate and submit legal responses in all matters.
2. Ensure the ongoing support by an inclusive Investigation and Professional Service team.
3. Facilitate all necessary interventions to support the said municipalities.

We will establish a task team with representation from the Office of the Premier, Municipalities and CAJV and we request that you attend an urgent meeting on the 22nd of January 2018 at the offices of the OTP.

Kind Regards

Mr T MDAKANE
DIRECTOR GENERAL: OFFICE OF THE PREMIER OF MPUMALANGA
DATE: 18/01/2018

"NIDS"

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Mr S Williams
CA JV (PTY) LTD
Project Manager
45 Marloth Street
MBOMBELA
1200

Dear Mr Williams

RE: **COETZEE AND OTHERS VS THE PREMIER AND OTHERS (EMALAHLENI LOCAL MUNICIPALITY) CASE NO 2799/2017 MIDDLEBURG HIGH COURT THERE IS ALSO AN URGENT APPLICATION IN THE PTA HIGH COURT CASE NUMBER 83581/2017 AND RESILIENT PROPERTIES AND OTHERS VS ESKOM AND OTHERS (EMALAHLENI LOCAL MUNICIPALITY) URGENT APPLICATION CASE NO 83581/2017 PTA HIGH COURT AND SABIE CHAMBER OF COMMERCE AND OTHERS VS THABA CHWEU LOCAL MUNICIPALITY AND OTHERS URGENT APPLICATION CASE NO 2295/2017 MBOMBELA HIGH COURT**

In response to the outcomes of the meeting held on 22 January 2018, my office endorses the agreed upon roles mandates and functions reflected in the relevant meeting recordings. We further table the terms of reference for the required activities in line with our letter dated 19 January 2018, as follows:

1. The submission of Project Plan which outlines and supports all activities;

2. And assessment to be conducted in the identified municipalities to record and report deficiencies and make recommendations on areas of:

   2.1 Institutional Risk,

   2.2 Compliance in terms of the institutional framework including mandatory legislative and relevant policies and

   2.3 Analysis of the functional status of the said municipalities

3. Monthly submission of immediate activities as mandatory interventions through the Office of the Premier to support all legal representation with reliable and valid evidence and reporting as submissions to the court

4. Draft and submit an assessment report for endorsement and,

5. Distribute copies of the report to all identified stakeholders.

The intended outcome is to conclude a valid and reliable assessment report highlighting institutional risk which will be reflective of non-compliance to the mandatory institutional framework.

All activities attached to the areas reflected in the Terms of Reference must be submitted for endorsement. The submitted activities must be accompanied by a Work Plan and budget for approval and authorised payment.

The above mandatory activities must be ring fenced and submitted by 5 February 2018.

Kind Regards

Mr T MDAKANE
DIRECTOR GENERAL: OFFICE OF THE PREMIER OF MPUMALANGA
DATE: 23/01/2018

"ND6"

office of the premier
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Lihovisi la Ndvunankhulu | I-Ofisi Lika Ndunakulu | Kantoor van die Premier

Hon. Cllr SP Mathonsi
Executive Mayor
City of Mbombela
Box 45
MBOMBELA
1200

Dear Hon. Mathonsi

REQUEST FOR THE ASSISTANCE OF MBOMBELA MUNICIPALITY MANAGER, Mr NEIL DIAMOND FOR THE OFFICE OF THE PREMIER WITH ON AS AND WHEN NEEDED BASIS

In response to the appraisal of the following legal matters, by the Office of the Premier, listed below:

- Coetzee and others vs the Premier and others (Emalahleni Local Municipality) case No. 2799/2017 Middleburg High Court case number 83581/2017,
- Resilient Properties and others vs Eskom and others (Emalahleni Local Municipality) urgent application case No. 83581/2017 Pretoria High Court, and
- Sable Chamber of Commerce and others vs Thaba Chweu Local Municipality and others urgent application Case No. 2295/2017 Mbombela High Court.

We have endorsed and acted upon the recommendation to take all reasonable steps to ensure that we avert electricity cuts by Eskom. We have further supported the immediate activities as mandatory interventions through my office to support all legal representation with liable and valid evidence and reporting as submissions to court. By executing the following:

1. Take all necessary steps to formulate and submit legal responses in all matters,
2. Ensure the ongoing support by an inclusive investigation and Professional Service team
3. Facilitate all necessary interventions to support the said municipalities.

We have established an intervention task team with representation from the Office of the Premier, Municipalities and a duly appointed service provider, CSJV under contract Pre/040/14/MP.

We request that you release Mr Neil Diamond from his current duties when required to lead the said team and provide the necessary representation on behalf of local government.

Kind regards

Mr T MDAKANE
DIRECTOR-GENERAL: OFFICE OF THE PREMIER OF MPUMALANGA
DATE: 23/03/2018

MPUMALANGA
THE PLACE OF THE RISING SUN

"ND7"

Civic Centre
1 Nel Street
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CITY OF MBOMBELA

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OFFICE OF THE EXECUTIVE MAYOR

Enquiries: Mojaki Mosala.
Telephone: (013) 759 - 9392

Date: 13 February 2018

The Municipal Manager
City of Mbombela
MBOMBELA
1200

Attention: Mr. Neil Diamond

Sir,

REQUEST FROM THE OFFICE OF THE PREMIER – MPUMALANGA PROVINCE: FOR THE ASSISTANCE BY CITY OF MBOMBELA'S MUNICIPAL MANAGER, MR. NEIL DIAMOND IN THE LEGAL MATTERS LISTED BELOW ON AN AS AND WHEN NEED BASIS

Following the request from the Office of the Premier, Mpumalanga to assist in the legal matters listed below, we confirm our agreement and support thereto.

The legal matters for which this support is granted are the following:

1) Coetzee and Others v/s The Premier and Others (Emalahleni Local Municipality) case no. 2799/2017 Middleburg High Court case no. 8358/2017,
2) Resilient Properties and Others v/s Eskom and Others (Emalahleni Local Municipality) urgent application case No. 83581/2017 Pretoria High Court, and
3) Sable Chamber of Commerce and Others v/s Thaba Chweu Local Municipality and Other Urgent Application Case No. 2295/2017.

The Premier's office has endorsed and acted upon the recommendation to take all reasonable steps to ensure that electricity cuts by Eskom are averted.

Take note that the Office of the Premier supports all immediate activities as well as mandatory interventions and legal representation with reliable and valid evidence and reporting submissions to the Court by executing the following:

1) Take all necessary steps to formulate and submit legal responses in all matters.
2) Ensure that the ongoing support by an Inclusive Investigation and Professional Services team.
3) Facilitate all necessary interventions to support the said municipalities.

Take further notice that an intervention task team consisting of representatives from the Office of the Premier, Municipalities and a duly appointed service provider, CSJV under contract Pre/040/14/MP.

In view of the above, please note that you will from time to time be released from your current duties to lead the said team and provide the necessary representation on behalf of local government.

All the travelling and incidental costs will be covered by the City of Mbombela and the City of Mbombela through the assistance of the Premier's Office, will recover these costs from the affected municipalities.

Hope you find the above in order.

Yours in good governance.

Hon. Cllr. SP MATHONSI
EXECUTIVE MAYOR

CA JV (Pty) Ltd.
PRE/040/14/MP

"MD8"

Enq: Shakier Williams
Tel: 083 644 7705
Ref: PRE/040/14/MP-Task Team

Mr T Mdakane
Director General: Office of the Premier Mpumalanga
Building 2
Riverside Government Complex
Mbombela
1200

Dear Sir

RE: COETZEE AND OTHERS VS THE PREMIER AND OTHERS (EMALAHLENI LOCAL MUNICIPALITY) CASE NO 2799/201 MIDDLEBURG HIGH COURT. THERE IS ALSO AN URGENT APPLICATION IN THE PTA HIGH COURT CASE NUMBER 83581/2017 AND RESILIENT PROPERTIES AND OTHERS VS ESKOM AND OTHERS (EMALAHLENI LOCAL MUNICIPALITY) URGENT APPLICATION CASE NO 83581/2017 PTA HIGH COURT AND SABIE CHAMBER OF COMMERCE AND OTHERS VS THABA CHWEU LOCAL MUNICIPALITY AND OTHERS URGENT APPLICATION CASE NO 2295/2017 MBOMBELA HIGH COURT

BACKGROUND

In response to your earlier correspondence dated 23 January 2018 and the request for the submission of a project plan which outlines and supports all activities.

We hereby present our recommended project proposal for your consideration and approval.

1. AREAS OF FOCUS

1.1. Conduct an assessment in the identified municipalities to record and report deficiencies and make recommendations on the findings.

4. Communication

The Team will hold weekly meetings with the appointed Municipality representative Mr N Diamond to ensure constant communication with all stake-holders.

It is envisaged that a weekly report will be compiled to be submitted to the office of the Premier post the weekly meeting.

5. Project Plan

Deliverable	Time-Line	Due Date
Assess the Annual Financial Statements of the municipalities.	3 Weeks	5 March 2018
Review the Eskom account for the municipalities	6 weeks	23 March 2018
Analyse the AGSA Management reports for the municipalities to identify all areas of	6 weeks	23 March 2018
Non-Compliance. Conduct SCM data review to identify risks	7 weeks	29 March 2018
Conduct an institutional capacity assessment	6 weeks	23 March 2018
Assessment and development of a Litigation register to identify contingency liability.	4 weeks	12 March 2018
Submission of Draft Report to the Office of the Premier	1 week	30 March 2018

6. Financial Implications

The budgetary requirements for the assessment in the identified municipalities to record and report deficiencies and make recommendations on the findings are further detailed in **Annexure A** to this Communique.

S WILLIAMS
CAJV: PROJECT MANAGER
DATE 5/2/18