

REPUBLIC OF SOUTH AFRICA



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28 June 2024

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 2023-042792

In the matter between:

AFRIFORUM NPC

and

NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

ESKOM HOLDINGS SOC LIMITED

RAND WEST MUNICIPALITY

MUNICIPALITIES LISTED IN ANNEXURE "FA3" TO THE
FOUNDING AFFIDAVIT

Applicant

First Respondent

Second Respondent

Third Respondent

Fourth Respondent

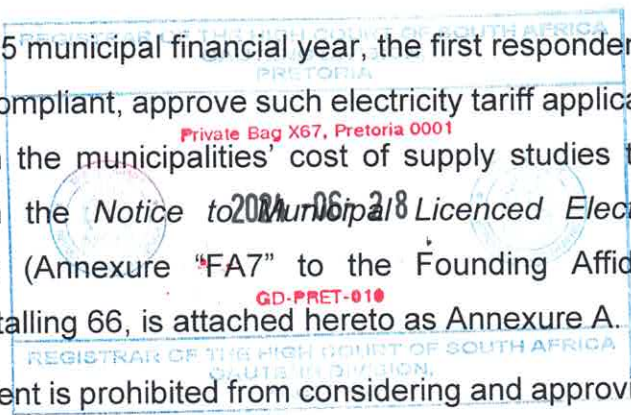
Fifth to the 178th
Respondents



ORDER

The Court orders, with reasons to follow, that:

- [1] The normal rules concerning form and service are dispensed with and the application is heard and decided as a matter of urgency.
- [2] The first respondent's mechanism for approval of municipal electricity tariffs as set out in the *Notice to Municipal Licenced Electricity Distributers*, 29 January 2024 (Annexure "FA8" to the Founding Affidavit) is declared to be unlawful, invalid and of no force and effect.
- [3] For the 2024/2025 municipal financial year, the first respondent shall consider and, if they are legally compliant, approve such electricity tariff applications by municipalities as are based on the municipalities' cost of supply studies timeously submitted in accordance with the *Notice to Municipal Licenced Electricity Distributers*, 17 November 2023 (Annexure "FA7" to the Founding Affidavit). A list of such municipalities, totalling 66, is attached hereto as Annexure A.
- [4] The first respondent is prohibited from considering and approving municipal electricity tariffs for the 2024/2025 municipal financial year and subsequent municipal financial years where the municipalities' applications for the approval of municipal electricity tariffs are not in accordance with the *Notice to Municipal Licenced Electricity Distributers*, 17 November 2023.
- [5] No municipality shall be entitled to levy increased electricity tariffs upon end-consumers until such time as the first respondent has granted an approval of an application, in accordance with the *Notice to Municipal Licenced Electricity Distributers*, 17 November 2023.
- [6] Any municipality for whom the first respondent has not granted an approval of an application supported by a cost of supply study in accordance with the *Notice to Municipal Licenced Electricity Distributers*, 17 November 2023, shall be entitled to continue levying electricity rate tariffs on the same tariff as that applicable during the 2023/24 municipal financial year, subject to paragraph 7.
- [7] Municipalities shall be permitted to supplement electricity tariff applications with cost of supply studies in accordance with the *Notice to Municipal Licenced Electricity Distributers*, 17 November 2023.



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Distributors, 17 November 2023, and the first respondent shall consider and, if they are legally compliant and in accordance with the *Notice to Municipal Licenced Electricity Distributors* 17 November 2023, approve such electricity tariff applications by municipalities, within one month of receipt of the requisite cost of supply studies. Municipalities are afforded 60 days from the date of this order to make such a compliant application to the first respondent.

- [8] The first respondent shall pay the applicant and the second respondent's costs of the application, including the costs consequent upon the employment of two advocates, that of senior counsel on Scale C and that of junior counsel on Scale B, in terms of rule 67A(2) and (7).



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Acting Judge of the High Court

**FOR AFRIFORUM: MARGARETHA ENGELBRECHT SC
ETIENNE BOTHA**

INSTRUCTED BY: MARJORIE VAN SCHALKWYK, HURTER & SPIES

FOR NERSA: REALEBOGA TSHETLO

INSTRUCTED BY: PRINCE MUDAU, PRINCE MUDAU ATTORNEYS

**FOR SALGA: KENNEDY TSATSAWANE SC
KGOMOTSO KABINDE**

INSTRUCTED BY: H M CHAANE ATTORNEYS

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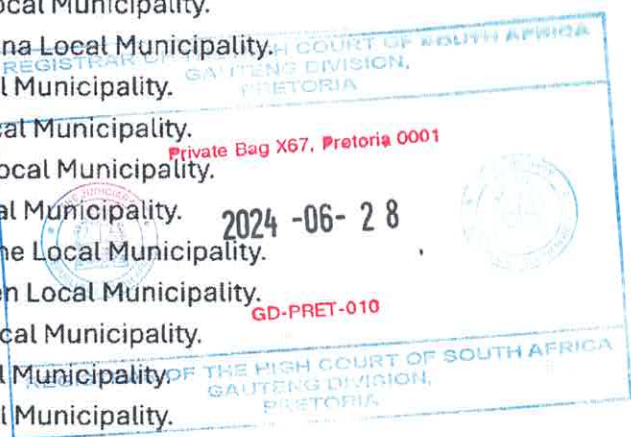
Municipalities that have submitted their tariff applications with COS Studies

1. Oudtshoorn Local Municipality.
2. eThekweni Metropolitan Municipality.
3. Swartland Local Municipality.
4. Overstrand Local Municipality.
5. Drankenstein Local Municipality.
6. Bergrivier Local Municipality.
7. Saldhana Bay Local Municipality.
8. Sakhisizwe Local Municipality.
9. George Local Municipality.
10. Langeberg Local Municipality.
11. Hessequa Local Municipality.
12. City of uMhlathuze Local Municipality.
13. Newcastle Local Municipality.
14. Midvaal Local Municipality.
15. Dr Beyers Naude Local Municipality.
16. Buffalo City Metropolitan Municipality.
17. Nkentoana Local Municipality.
18. Tswaing Local Municipality.
19. Khai Ma Local Municipality.
20. Mohokare Local Municipality.
21. Rustenburg Local Municipality.
22. Umsobombu Local Municipality.
23. Letsemeng Local Municipality.
24. Emalahleni Local Municipality.
25. Naledi Local Municipality.
26. City of Tshwane Metropolitan Municipality.
27. Senqu Local Municipality.
28. Makana Local Municipality.
29. Knysna Local Municipality.
30. Steve Tshwete Local Municipality.
31. City of Ekurhuleni Metropolitan Municipality.
32. Cape Agulhas Local Municipality.
33. Walter Sisulu Local Municipality.
34. Tswelopele Local Municipality.
35. City of Cape Town Metropolitan Municipality.
36. Sundays River Local Municipality.



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- 37. Musina Local Municipality.
- 38. Cederberg Local Municipality.
- 39. Witzenberg Local Municipality.
- 40. Ba-Phalaborwa Local Municipality.
- 41. Cederberg Local Municipality.
- 42. Ephraim Mogale Local Municipality.
- 43. Thaba Cheu Local Municipality.
- 44. Breede Valley Local Municipality.
- 45. Setsoto Local Municipality.
- 46. Theewaterskloof Local Municipality.
- 47. Breede Valley Municipality.
- 48. Swellendam Local Municipality.
- 49. City of Matlosana Local Municipality.
- 50. Moqhana Local Municipality.
- 51. Laingsburg Local Municipality.
- 52. Tsantsabane Local Municipality.
- 53. Twelopele Local Municipality.
- 54. Lekwa- Teemane Local Municipality.
- 55. Greater Tzaneen Local Municipality.
- 56. KwaDukuza Local Municipality.
- 57. Moqhaka Local Municipality.
- 58. Bela Bela Local Municipality.
- 59. Mokgalakwena Local Municipality.
- 60. Ndhlambe Local Municipality.
- 61. Thembelihle Local Municipality.
- 62. JB Marks Local Municipality.
- 63. Stellenbosch Local Municipality.
- 64. City Power Johannesburg.
- 65. CENTLEC (Soc) Ltd
- 66. Nelson Mandela Bay Municipality



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