

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Division, Pretoria

CASE NO: **2023-082488**

In the matter between:

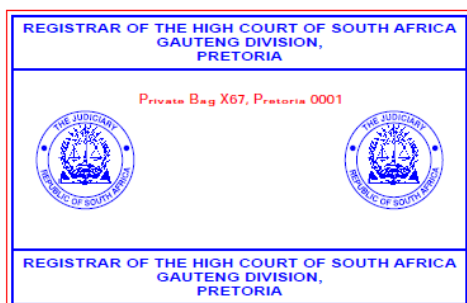
DEMOCRATIC ALLIANCE, DITSOBOTLA RATEPAYER ASSOCIATION Plaintiff / Applicant / Appellant

and

ESKOM HOLDINGS SOC LTD, DITSOBOTLA LOCAL MUNICIPALITY, THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA ("NERSA"), THE PREMIER, NORTH WEST PROVINCE, THE MEC: CO-OPERATIVE GOVERNMENT AND TRADITIONAL AFFAIRS, NORTH WEST PROVINCE Defendant / Respondent

Notice of Motion (Long Form)

NOTE: This document was filed electronically by the Registrar on 18/8/2023 at 1:57:36 PM South African Standard Time (SAST). The time and date the document was filed by the party is indicated on the header of each page of this document.



ELECTR

SIGNED BY:

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

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO:

In the matter between:

DEMOCRATIC ALLIANCE

Applicant

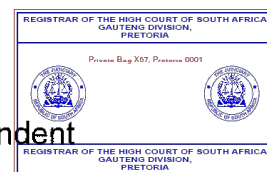
DITSOBOTLA RATEPAYER ASSOCIATION

Second Applicant

and

ESKOM HOLDINGS SOC LTD

First Respondent



DITSOBOTLA LOCAL MUNICIPALITY

Second Respondent

**THE NATIONAL ENERGY REGULATOR OF
SOUTH AFRICA (“NERSA”)**

Third Respondent

THE PREMIER, NORTH WEST PROVINCE

Fourth Respondent

**THE MEC: CO-OPERATIVE GOVERNMENT
AND TRADITIONAL AFFAIRS, NORTH WEST
PROVINCE**

Fifth Respondent

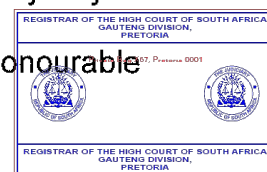
NOTICE OF MOTION

BE PLEASED TO TAKE NOTICE that the Applicants intend to apply to the above Honourable Court in the following terms:

PART A:

On 24 August 2023 at 10:00, **alternatively a date to be set in conjunction with the directives of Court** or as soon thereafter as counsel may be heard for an order in the following terms:

1. Authorising the Applicants to dispense with the ordinary rules relating to forms, service and time periods and permitting this application to be brought by way of urgency in terms of rule 6(12) of the Uniform Rules of the above Honourable Court;



2. The First Respondent is –
 - 2.1. interdicted and prohibited from implementing and/or to continue with its decision to reduce the bulk electricity supply to the Ditsobotla Local Municipality supplying Applicants' members by limiting supply to one of the two 10 MVA transformers supplying the town of Lichtenburg, Northwest and/or to apply any form of electricity interruptions or reductions save for planned maintenance or emergency situations and/or national load shedding;
 - 2.2. directed to switch on both 10MVA transformers enabling bulk electricity supply to the Ditsobotla Local Municipality; and

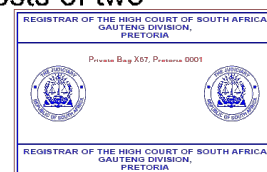
- 2.3. directed to maintain the levels of oil in the transformer leaking oil, to such extent that the transformer remains functional and/or when replaced; and
- 2.4. in the event that First Respondent is required to do planned maintenance on any of the aforesaid transformers that will result in the switching off of such transformer, to engage Applicants about such maintenance coupled with a plan setting out the required maintenance, the planned downtime and emergency measures put in place to limit downtime; and
- 2.5. in the event that downtime of any of the two 10MVA transformers are to exceed a time period of 24 hours due to any cause, that the First Respondent and the Second Respondent file with this court a joint report of steps taken to mitigate the effect of the downtime and on an expected time of return to service of such transformer.
3. The order in paragraph 2 above will operate as an interim interdict with immediate effect pending;
- 3.1. the final adjudication of the Applicant's application for a review of the First Respondent's decision(s), in terms of the Promotion of Administrative Justice Act No 3 of 2000 ("PAJA"), and/or legality review to set aside the First Respondent's decision(s) to reduce the bulk electricity supply to the Applicant, inter alia by continuing to keep



either of the two transformers servicing Lichtenburg, out of service

[PART B];

4. The First Respondent; alternatively the First, Second, Third and Fourth Respondents, to the extent that they respectively or in concert were able to avert the reduction decision or resolve the issues resulting in the reduction decision, and failed to do so, are directed to pay the costs of this application jointly and severally on the attorney and client scale, including the costs of two counsel where so employed;



5. Further and/or alternative relief.

AND that the accompanying affidavit of **Mr YUSUF LAHER** and annexures thereto will be used in support hereof.

TAKE FURTHER NOTICE that the applicant has appointed **MOOLMAN & PIENAAR INC.** at the address below at which it will accept service of all notices and process in these proceedings.

TAKE FURTHER NOTICE that if you intend opposing **PART A** you are required:

- (a) to notify applicant's attorney in writing per email on or about **18 August 2023 at 16:00;**
- (b) to file your answering affidavit per email, if any, by no later than **9h00** on 22 August 2023.

FURTHER NOTE that the Applicants reserved the right to bring the matter forward on 24 hours' notice in the event that the reductions and concomitant interruptions creates a situation wholly untenable by the time aforesaid indicated for hearing.

Kindly enrol the matter accordingly.

PART B:

AND FURTHER TAKE NOTICE that the Applicants intends to apply to the above Honourable Court on a date to be arranged with the Registrar for an order in the following terms:

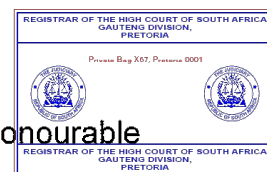


6. Declaring that the First Respondent's decision to refuse the supply of bulk electricity via both 10 MVA transformers and to, on that basis effectively reduce the bulk electricity supply to the Second Respondent to a maximum of 10MVA ("the reduction decision") was unconstitutional and invalid;
7. Declaring that the First Respondent's reduction decision is reviewed and set aside.
8. Ordering that the First, alternatively the First to the Fifth Respondents pay the costs of the application, jointly and severally, the one paying the other to be absolved, inclusive of the costs of two counsel where so employed.

TAKE NOTICE FURTHER THAT–

- a. the First Respondent is called upon to show cause why the reduction decision(s) should not be reviewed and set aside.
- b. The First Respondent is called upon to dispatch to the Registrar of this court within 15 days after receipt of this Application, the Record of the reasons for the reduction decision(s).

TAKE NOTICE FURTHER that if you intend to oppose **PART B** and the relief sought, you are required:



- a) To notify the applicant's attorneys and the Registrar of this above **Honourable** Court within 15 days from the date of receipt of this notice of motion or any amendment thereof in terms of Rule 53(4);
- b) In the notice referred to in paragraph (a) above, to appoint an address in terms of Rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings, only to the extent that you are not already represented by an Attorney; and
- c) Within 30 days after the expiry of the time referred to in Rule 53(4), to deliver your answering affidavit.

TAKE NOTICE FURTHER THAT if no notice of intention to oppose is received for the relief sought as set out above, this Application will be enrolled for hearing on a date to be arranged with the Registrar.

TAKE NOTICE FURTHER THAT the accompanying affidavit already attached to this Notice deposed to by Mr Yusuf Laher together with annexures thereto and as supplemented in consequence of the record of decision(s), will similarly be used in support of the relief claimed.

SIGNED AT PRETORIA on this 18th day of AUGUST 2023.

MOOLMAN & PIENAAR INC

Applicants' Attorneys

57 MAREE STREET

POTCHEFSTROOM

TEL: 018 297 8799

E-MAIL: hj@mmlaw.co.za & litigation3@mmlaw.co.za

Ref:HJ MOOLMAN / AF / MAT10211

C/O: CILLIERS & REYNDERS

106 JEAN AVENUE,

DORINGKLOOF, CENTURION

TEL: 012 667 2405

E-MAIL: markus@cilreyn.co.za

REF: JH CILLIERS/MV/MAT 44837

TO:

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

AND TO:

ESKOM HOLDINGS SOC LTD

FIRST RESPONDENT

[SERVED VIA EMAIL]

BY E-MAIL:

TitusRJ@eskom.co.za; and / or

Calib.Cassim@eskom.co.za; and/or

MakolaK@eskom.co.za ; and/or

ManzanL@eskom.co.za

AND TO:

DITSOBOTLA LOCAL MUNICIPALITY

SECOND RESPONDENT

PER THE MUNICIPAL MANAGER

BY E-MAIL:

moiloag24@gmail.com ; and/or

shematsietsi@yahoo.com ; and/or

thandiwempame@gmail.com

AND TO:

**THE NATIONAL ENERGY REGULATOR OF
SOUTH AFRICA ("NERSA")**

THIRD RESPONDENT

526 MADIBA STREET

ARCADIA, PRETORIA

REF: MOSIBUDI RALEMATHA

BY E-MAIL:

Sandile.dlamini@nersa.org.za

Mosibudi.ralematha@nersa.org.za

[SERVED VIA EMAIL]



[SERVED VIA EMAIL]

AND TO:

THE PREMIER OF NORTHWEST PROVINCE

FOURTH RESPONDENT

[SERVED VIA EMAIL]

BY E-MAIL:

pmogalane@nwpg.gov.za ; and/or

MGasemene@nwpg.gov.za

AND TO:

THE MEMBER OF THE EXECUTIVE COUNCIL

[SERVED VIA EMAIL]

COOPARTIVE GOVERNANCE AND TRADITIONAL AFFAIRS

NORTHWEST PROVINCE

FIFTH RESPONDENT

BY E-MAIL:

motshabi@nwpg.gov.za; and/or

Tebogo.Motlashuping@cogta.gov.za; and/or

MMotlogelwa@nwpg.gov.za; and/or

MandisaMB@cogta.gov.za ; and/or

info@cogta.gov.za

