

**SUBMISSION TO ESKOM REGARDING THE PROPOSED REDUCTION, INTERRUPTION AND/OR  
TERMINATION OF ELECTRICITY SUPPLY TO THE CITY OF JOHANNESBURG AND/OR CITY POWER**

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Submitted by: Organisation Undoing Tax Abuse (OUTA)

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## 1. Introduction

OUTA welcomes the opportunity to make representations to Eskom in response to Eskom's Notice issued in terms of the Promotion of Administrative Justice Act, 2000 (PAJA), regarding its intention to reduce, interrupt and/or terminate electricity supply to certain bulk supply points serving the City of Johannesburg (CoJ) and/or City Power (CP).

OUTA understands that Eskom's notice arises from persistent non-payment by CoJ and/or CP and a substantial historic debt owed to Eskom. OUTA further understands that the affected bulk supply points identified in the notice may include areas served by the Fordsborg, Beyers, Crowthorne and Allandale substations, with potential impact on parts of the Johannesburg CBD, Fordsborg, Auckland Park, Mayfair, Fairland, Cresta, Midrand and surrounding areas.

OUTA recognises Eskom's legal right and operational duty to recover money lawfully owed to it. Municipal debt to Eskom is not a minor accounting issue. It threatens Eskom's own financial sustainability, undermines the electricity supply industry and ultimately increases the burden on ordinary consumers and taxpayers.

At the same time, OUTA submits that the proposed interruption of electricity supply to areas containing large numbers of compliant paying customers would be a drastic public-interest measure. It risks shifting the consequences of municipal governance failure onto residents, businesses, public institutions and ratepayers who have paid for electricity and who have no direct control over CoJ or CP's financial decisions.

It is also important to note that the consequences of electricity interruptions pose a severe threat to the people and businesses within CoJ for various reasons, including but not limited to access to water, safety and economic disruption in very difficult economic times and one also has to emphasise the timing of the threat of cutoff being in the heart of winter, when energy supplies are extremely important in households across CoJ.

This submission therefore does not seek to excuse non-payment by CoJ or CP. Rather, it seeks to ensure that any decision taken by Eskom is lawful, procedurally fair, evidence-led, proportionate, transparent and protective of compliant consumers.

## 2. OUTA's position in principle

OUTA's position is based on six principles.

1. First, CoJ and CP must be held accountable for electricity revenue management, debt obligations, revenue protection, technical and non-technical losses, billing accuracy, infrastructure maintenance and consequence management.
2. Second, Eskom is entitled to recover what is owed to it, but debt recovery must not amount to collective punishment of residents and businesses who have met their payment obligations.
3. Third, any intervention must preserve public accountability and avoid creating a political or administrative arrangement that is opaque, unlawful, unworkable or incapable of proper oversight.

4. Fourth, public participation under PAJA must be meaningful. Affected parties must be given enough information to understand the decision being considered, the facts on which it is based, and whether subsequent events have changed those facts.
5. Fifth, NERSA, National Treasury, COGTA and other relevant state institutions cannot be passive observers. The escalation of municipal electricity debt and distribution failure points to systemic oversight failures and a lack of political will to address these problems that require regulator-led and government-wide intervention.
6. Where a practical short-term arrangement is required, it should be structured to ensure Eskom's debt is repaid, electricity supply remains uninterrupted, and CoJ/CP retains its mandate once clearly defined criteria and milestones have been achieved.

### **3. Material changes in circumstances**

After Eskom issued its PAJA notice, the Minister of Electricity and Energy publicly announced that Eskom and the City of Johannesburg had reached an agreement, arrangement or intervention plan regarding the City's debt and electricity supply arrangements.

That announcement may materially alter the factual basis on which Eskom issued the notice. If an agreement now exists that addresses payment obligations, monitoring arrangements, operational oversight, revenue collection and default consequences, then Eskom must clarify whether the PAJA process is continuing, suspended, withdrawn or being reconsidered.

This is not a technical issue. Members of the public are being asked to comment on the possibility of supply interruption while the public record suggests that an intervention plan may already have been reached. That creates uncertainty and may have caused affected residents, businesses and institutions not to participate because they believed the risk had been resolved.

OUTA therefore submits that Eskom must formally clarify the status of the PAJA process. If Eskom intends to continue with the process, it must explain how the newly announced agreement affects the proposed administrative action and the necessity, proportionality and timing of any possible interruption.

OUTA also submits that, should the PAJA process continue, the agreement, if in existence, be shared with all stakeholders for them to meaningfully participate in the PAJA process and that the PAJA process be extended with a reasonable timeframe of at least 30 days.

### **4. Procedural fairness and meaningful public participation**

PAJA requires administrative action to be procedurally fair. In a matter of this scale, procedural fairness requires more than publication of a notice. It requires affected parties to receive sufficient information to make informed representations.

OUTA submits that residents, businesses and civil society cannot participate meaningfully without access to the basic terms of the agreement or intervention plan announced by the Minister. At a minimum, Eskom should disclose the following, subject only to lawful and properly justified confidentiality limitations:

- The payment obligations assumed by CoJ and/or CP;
- All timelines for payment and implementation;
- Governance obligations imposed on CoJ, CP and Eskom;
- Monitoring mechanisms and reporting obligations;
- The consequences of default;
- Whether supply interruptions remain an option;
- If Eskom will exercise any operational oversight or control;
- If revenue collection, billing or payment channel arrangements will change; and
- If customers may be required to pay Eskom directly in any circumstances.

Without this information, the public is being asked to comment in the dark. That weakens the legitimacy of the process and exposes any final decision to legal challenge.

OUTA requests that Eskom disclose sufficient information about the agreement and extend the public participation period by at least 30 days after disclosure so that affected parties can make informed representations.

### **5. Paying customers must not be punished for municipal failure**

OUTA accepts that CoJ and CP must be held accountable for failure to honour electricity supply and payment obligations. However, residents and businesses who have paid their electricity accounts should not be placed in the same position as defaulting institutions or illegal consumers.

The current debt crisis appears to have developed despite years of electricity revenue being collected from consumers. The underlying causes include weak revenue management, inadequate ring-fencing of electricity income, poor billing systems, technical losses, non-technical losses, illegal connections, corruption, political interference, poor grid maintenance, insufficient consequence management and inadequate regulatory oversight.

**A central question remains unanswered: how did debt of this magnitude accumulate while City Power continued collecting electricity revenue from residents and businesses? The evidence suggests the failure is not one of revenue collection, but of revenue management. This distinction is critical because it reinforces why the consequences of the failure should be directed at those responsible for managing the revenue stream, rather than the consumers who funded it in good faith.**

These failures sit with CoJ, CP, political office bearers, responsible officials, oversight bodies and regulators. They do not sit with the compliant consumer who paid an account in good faith and expected the municipality or municipal entity to pass on the appropriate payment to Eskom.

When it comes to municipal accountability, Eskom needs to determine who the accounting individuals are and whose decisions have led to the funds not flowing to Eskom.

Any measure that interrupts supply to paying consumers risks punishing the wrong stakeholders. It would also undermine public trust in lawful payment behaviour. If people pay but still face interruption because the municipality mismanaged the money, public willingness to comply may be damaged further.

OUTA further submits that residents and businesses are becoming increasingly frustrated at being expected to pay more while service delivery, infrastructure reliability and financial accountability continue to deteriorate.

Eskom's remedies should therefore be directed at the institutional failure, the money-flow failure and the governance failure, rather than the innocent end-user.

## **6. Public-interest risks of interrupting supply**

Johannesburg is South Africa's largest economic city and a critical commercial, logistics, health, education and administrative center. Supply interruption in the affected areas would not be an ordinary debt recovery measure. It would carry major public-interest consequences.

The likely consequences include economic disruption, lost productivity, damage to small and medium businesses, interruption to retailers and industrial users, traffic delays and lost productivity, increased costs for already strained households and further pressure on businesses that are already paying for alternative energy solutions.

There are also direct risks to public institutions and essential services. Hospitals, clinics, schools, tertiary institutions, old-age homes, police stations, courts and other institutions may face disruption even where backup systems exist. Backup power is expensive, often limited and not a substitute for stable grid supply. With the current fuel prices this poses an even higher burden on those using these backup systems.

Power interruption can also create safety and security risks. Traffic lights may fail, road congestion may worsen, security systems may be compromised, public lighting may be affected and crime risks may increase in vulnerable areas. The streetlights already disconnected by Eskom due to non-payment pose safety and security risks for crime and commuters driving at night.

Electricity interruptions can produce knock-on effects for water and sanitation systems, particularly where pumping, pressure management, wastewater treatment and telemetry systems depend on reliable power.

Telecommunications, digital infrastructure, payment systems, data centres and emergency communications may also be affected.

These consequences must be weighed against the purpose Eskom seeks to achieve.

OUTA submits that, where credible alternatives exist, interruption should be a measure of last resort and not a first-line response to municipal debt failure.

## **7. Eskom takeover or partial operational control: benefits, risks and safeguards**

OUTA notes that public debate has included the possibility of Eskom taking over CP and that Eskom also highlights this option or the option of payment diversion on the public notice. Taking partial operational control or exercising stronger oversight over revenue collection, billing, technical operations and payment flows may appear attractive given the current state of affairs within CoJ and CP. Such options require careful legal, financial and governance analysis.

A properly structured intervention may have potential benefits. These may include improved debt recovery discipline, stronger technical capacity, more direct accountability for electricity supply, better revenue protection, potentially reduced political interference (unless centralised power may be abused and negatively influence the political future of CoJ following local elections in 2026), improved payment flow to Eskom and possible stabilisation of parts of the distribution network if the intervention is properly funded and competently managed.

However, OUTA cautions against treating an Eskom takeover as a simple solution. Municipal electricity distribution is a constitutional and statutory function. Any transfer, takeover, agency arrangement or operational-control model must be lawful, transparent and approved through proper governance processes.

The risks include legal uncertainty, labour disputes, asset-transfer disputes, operational complexity, unclear responsibility for maintenance and capital expenditure, confusion over customer service and billing, loss of local accountability and the possibility that Eskom inherits a failing distribution system without adequate funding or authority to fix it.

The NERSA license or conditions within the license also need to be considered in the process.

There is also a policy risk. If national intervention merely centralises municipal failure without fixing political accountability, revenue discipline, procurement controls, infrastructure maintenance and consequence management, the same failure may reappear in a different institutional form.

The risk of increasing costs also exists which may force consumers to invest in more alternative energy.

OUTA submits that any Eskom operational role must be governed by clear safeguards: lawful authority, public disclosure, defined scope, time limits, measurable targets, independent monitoring, reporting to NERSA and the public, protection of consumer rights, clarity on assets and labour, cost of service sensitivity, efficiency mechanisms and an exit or review mechanism.

## **8. Direct customer payment to Eskom: benefits, risks and safeguards**

OUTA also notes that direct payment by customers to Eskom has been raised in public discussion as a possible remedy. This option requires a balanced assessment.

The potential benefits are clear. Direct payment could ring-fence electricity revenue, reduce leakage of electricity income into unrelated and unmandated municipal spending, improve payment certainty to Eskom, increase confidence among paying customers and make non-payment easier to identify and act upon.

However, direct payment also carries material risks. It may weaken CoJ's cash flow and broader municipal budget (though electricity revenue should cover the cost of the service), create administrative confusion, produce disputes over prepaid and post-paid customers, raise questions about indigent customers and free basic electricity and cause uncertainty over business accounts, historic arrears and customer migration.

There is also a maintenance risk. If Eskom receives the revenue but CP or CoJ remains responsible for the local distribution network, then the funding of maintenance, repairs, capital expenditure, customer

service and fault response must be clearly addressed. Otherwise the arrangement may improve debt recovery while leaving the local network underfunded.

Direct payment may also be difficult to reverse once implemented, particularly after a change in political administration. Any such arrangement must therefore be lawful, transparent, time-bound where appropriate, subject to review and supported by clear rules preventing double-billing, customer confusion and disputes over historic debt.

OUTA submits that direct payment should not be used as a quick political fix. If adopted, it must form part of a properly governed revenue ring-fencing and repayment framework that protects consumers and preserves accountability for both current and past failures.

### **9. Medium-term risks after local government elections**

Local government elections are expected later this year. This timing is important. Any agreement reached now may bind, constrain or undermine a future administration that inherits the legal, financial and operational consequences of the arrangement.

OUTA is concerned that a short-term political settlement may be presented as a solution while deferring difficult obligations, repayment pressures or operational risks into the next term of local government. That would be unfair to residents and harmful to governance stability.

Any agreement must therefore be transparent, lawful, approved through proper governance processes and capable of being implemented by the current and future administrations. It must not saddle a future administration with unworkable obligations or unclear liabilities.

The agreement should include clear review, amendment and exit mechanisms. It should also preserve accountability for past failures. A new administration should not be forced to carry the consequences of historic mismanagement while those responsible escape scrutiny.

OUTA submits that Eskom, CoJ, CP, NERSA, National Treasury and COGTA should ensure that any agreement is placed within a transparent accountability framework that survives political change and protects residents rather than political incumbents.

### **10. NERSA's regulatory failure and required intervention**

OUTA is concerned that the scale of CoJ and CP's debt to Eskom and the deterioration of municipal electricity distribution point to serious regulatory failure. NERSA licenses electricity distributors and approves tariffs within a regulatory framework that should protect consumers, ensure financial sustainability and monitor service quality.

The public is entitled to ask how municipal electricity debt could escalate to this level while tariffs continued to increase year after year. The public is also entitled to ask how consumers can be charged more while distribution grids deteriorate, electricity losses remain high, revenue collection weakens and payment discipline to Eskom collapses.

OUTA submits that NERSA must explain what licence monitoring it has undertaken in relation to CoJ and CP, including monitoring of licence conditions, financial sustainability, technical and non-technical

losses, tariff applications, service quality, grid maintenance, consumer protection and compliance with regulatory obligations. Also, why NERSA has allowed CoJ or CP to breach the license conditions on paying its bulk supplier for so long and what measures it has taken to address these irregularities.

If NERSA's role is limited to tariff approvals while municipal distributors fail to pay Eskom, fail to maintain networks and fail to protect consumers, then regulation has become too passive. NERSA must regulate, not rubber-stamp municipal failure.

OUTA requests that NERSA be formally drawn into any solution, with specific enforcement responsibilities, public reporting obligations and oversight of any repayment, revenue ring-fencing, direct-payment or operational-control arrangement.

### **11. Alternative remedies to supply interruption**

OUTA submits that Eskom and the relevant state institutions should exhaust less harmful, more targeted and more accountable remedies before any supply interruption affecting compliant customers is considered. After all, The Minister agreed with OUTA's statement that the paying residents and businesses should not become collateral damage due to CoJ or CP's failure to pay Eskom.

These remedies should include:

- Ring-fenced electricity revenue account for CoJ and/or City Power;
- An independent monitoring mechanism over City Power revenue collection and payment flows;
- Mandatory payment waterfall that prioritises payment of Eskom's current account and agreed arrears;
- Prevent the diversion of electricity revenue to unrelated municipal expenditure except where lawfully justified and directly linked to service delivery obligations.
- Appointment of a technical and financial intervention team with defined authority and reporting duties;
- Targeted disconnections of illegal connections and defaulting large users where lawful and procedurally fair;
- Revenue protection and metering audits;
- Urgent action against corruption, bypassing, theft and unlawful consumption;
- Consequence management against responsible officials and office bearers;
- Transparent monthly reporting to the public on payments, arrears, losses, collections and progress;
- NERSA enforcement of license conditions and service-quality obligations;
- Legally binding agreement amongst parties with clear individual consequence steps regarding negligence or failure;
- National Treasury and COGTA oversight of municipal financial recovery and governance compliance; and
- A court-supervised or regulator-supervised repayment plan if voluntary arrangements fail.

The core objective should be to fix the money-flow failure, enforce accountability and protect supply continuity for compliant consumers.

## 12. OUTA's requests to Eskom

OUTA respectfully requests that Eskom:

- 12.1 Confirm in writing whether the current PAJA process is continuing, suspended, withdrawn or being reconsidered considering the Minister's public announcement;
- 12.2 Disclose the agreement or intervention plan between Eskom, CoJ and/or CP, subject only to lawful and narrowly applied confidentiality limitations;
- 12.3 Extend the public participation period by at least 30 days after disclosure of the agreement or intervention plan;
- 12.4 Suspend any proposed supply interruption while the agreement is disclosed, assessed and subjected to meaningful public participation;
- 12.5 Avoid collective punishment of paying customers, business and public entities;
- 12.6 Pursue lawful debt recovery against CoJ and/or CP in a manner that targets institutional failure rather than compliant consumers;
- 12.7 Require independent monitoring and monthly public reporting on payments, arrears, collections, losses, revenue ring-fencing and implementation progress;
- 12.8 Ensure that NERSA, National Treasury, COGTA and other relevant departments are part of a transparent accountability framework;
- 12.9 Disclose whether any Eskom operational-control, revenue-monitoring, direct-payment or customer-migration arrangement is being considered;
- 12.10 Ensure that any agreement includes clear default consequences, review mechanisms, amendment mechanisms and safeguards for future administrations after the local government elections; and
- 12.11 Reserve accountability for past failures and require consequence management where officials, office bearers or entities failed to act lawfully, prudently and in the public interest.

### 13. Conclusion

OUTA supports accountability, payment discipline and financial sustainability in the electricity sector. CoJ and CP must not be allowed to collect electricity revenue from residents and businesses while failing to meet lawful payment obligations to Eskom.

However, Eskom's response must be lawful, proportionate and fair. Supply interruption affecting compliant consumers, businesses and institutions would carry severe economic and social consequences and should be avoided where credible alternative remedies exist.

The Minister's public announcement of an agreement or intervention plan has materially changed the public context. Eskom must therefore clarify the status of the PAJA process, disclose sufficient information to enable meaningful participation, and allow affected parties additional time to respond.

OUTA urges Eskom to pursue a transparent, independently monitored and enforceable solution that recovers the money owed, protects paying customers, restores governance discipline and prevents the electricity crisis in Johannesburg from being shifted onto residents who have already paid.

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