

18 June 2026

Mr A. Kotze  
Secretary of the Portfolio Committee on Energy and Electricity  
Parliament of South Africa  
Ground Floor  
120 Plein Street  
CAPE TOWN  
8000

Dear Mr Kotze

**OPEN LETTER TO THE PORTFOLIO COMMITTEE ON ELECTRICITY AND ENERGY:  
MUNICIPAL DEBT TO ESKOM; DISTRIBUTION AGENCY AGREEMENTS; AND THE  
FAILURE OF ACCOUNTABILITY IN LOCAL GOVERNMENT**

I wish to raise several concerns in the wake of your recent meeting about Eskom's plans to enter into distribution agency agreements (DAAs) with municipalities due to substantial debt to the energy supplier.

South Africa is facing a municipal debt crisis of unprecedented proportions. Municipal debt that is owed to Eskom now exceeds R114 billion. This debt did not accrue overnight. It is the result of years of financial mismanagement, poor governance, inadequate revenue collection and a persistent failure by the national government to enforce accountability.

To address this crisis, the National Treasury introduced the municipal debt relief programme. Municipalities who wanted to voluntarily join the programme had to adhere to explicit conditions. In exchange for debt relief and the prospect of substantial debt write-offs, these municipalities were required to meet strict payment obligations, including the payment of their current Eskom accounts over a three-year period. Importantly, the programme contained consequences for non-compliance. Municipalities that failed to honour their commitments were required to apply to the National Energy Regulator of South Africa (NERSA) for the revocation of their electricity distribution licences.

Of the 71 municipalities that entered the programme, only 11 are reportedly complying with the set conditions. This means that the majority of the participating municipalities failed or are failing to honour their commitments. Yet, neither the National Treasury nor NERSA appears inclined to enforce the very conditions upon which the programme was determined.

This raises a question: **Why do the National Treasury and NERSA refuse to implement the consequences that were built into the debt relief programme?**

AfriForum supports interventions that are aimed at restoring sustainable electricity distribution and ensuring reliable service delivery.

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**Registration number:** 2005/042861/08 • **NGO number:** 054 - 590

However, we cannot support the way Eskom is currently pursuing these agreements. Municipalities are being pressured into entering DAAs without meaningful public participation and without complying with the requirements of section 78 of the Local Government: Municipal Systems Act (LGMSA) 32 of 2000. The public, whose electricity services will ultimately be affected, is largely excluded from these discussions. Moreover, Eskom's current approach undermines transparency.

A submission of one of the panel members was that the DAA is meant to strengthen municipalities and therefore distribution licenses must remain with the municipalities. For years, many municipalities have demonstrated that they are unable or unwilling to manage electricity distribution responsibly. They failed to maintain infrastructure. They failed to collect revenue effectively. They failed to pay Eskom. They failed the communities they serve.

The solution therefore cannot be to continually "strengthen" institutions that repeatedly demonstrate their inability to fulfil their obligations. There must be consequences for failure.

During the Committee's deliberations, the Minister of Electricity and Energy emphasised that electricity reticulation is a municipal competency that is protected by the Constitution and that this function should therefore remain with municipalities. However, across South Africa communities are suffering under the weight of municipal collapse. Citizens must endure prolonged electricity outages, failing infrastructure, unsafe living conditions, economic decline and deteriorating public services. Elderly residents, vulnerable households, businesses and entire communities must now pay the price for municipal dysfunction.

One must therefore ask:

- 1. Should the constitutional rights, dignity, safety and well-being of ordinary South Africans continue to be sacrificed in order to preserve a municipal competency that many municipalities have repeatedly demonstrated they are unable to exercise effectively and responsibly?**
- 2. At what point do the constitutional rights of citizens take precedence over the protection of a municipal competency that numerous municipalities have proven incapable of fulfilling responsibly?**

The Constitution is not a shield behind which failing institutions can hide. Moreover, the existence of a municipal competency does not require a municipality to perform every function itself. The constitutional obligation is not necessarily to perform the function directly. The obligation is to ensure that the function is **effectively performed**.

Municipalities outsource functions every day. They contract private service providers, engineering firms, waste management operators, consultants and numerous other entities to fulfil their obligations. If another model can provide more reliable electricity distribution, better

maintenance, improved revenue collection and greater protection for consumers, then policymakers should be willing to consider it without political resistance.

AfriForum's position is straightforward. The municipal debt crisis is not the result of a lack of support, guidance or opportunities. Municipalities were given debt relief, payment arrangements, bailouts and countless second chances. Yet, many continue to fail. The evidence is overwhelming: numerous municipalities demonstrated time and again that they are incapable of managing electricity distribution responsibly. Financial mismanagement, failing infrastructure, poor revenue collection and a lack of accountability have become the norm rather than the exception.

The answer is not to ignore the conditions of the debt relief programme or to create new mechanisms that shield failing municipalities from accountability. The answer is to enforce the existing framework. Municipalities that failed to comply with the debt relief programme should be required to face the consequences of what they themselves agreed to. Their distribution licences should be revoked where appropriate, and the necessary processes should be initiated to ensure that electricity distribution is placed in the hands of entities that are capable of performing the function effectively.

Section 78 of the LGMSA provides a lawful mechanism to achieve this. Where municipalities have demonstrated that they cannot perform the function, alternative service delivery mechanisms should be investigated and implemented. These should include the appointment of competent public or private operators with the technical, financial and operational capacity to provide reliable electricity services.

AfriForum's last submission is this – where is Nersa in this whole saga? Did the committee invite them to make submissions, did they decline an opportunity or where they not invited?

NERSA is supposed to play a critical role in South Africa's electricity sector as regulator responsible for ensuring compliance, protecting consumers, and maintaining the integrity of the regulatory framework. If conditions attached to licences and government programmes can be ignored without consequence, the credibility of the entire regulatory system is undermined. A regulator that fails to enforce its own rules risks sending a message that compliance is optional and that there are no consequences for persistent failure

South Africans cannot continue to be held hostage by failing municipalities. The question before this committee is not **how to protect dysfunctional institutions**; the question is **how to protect the people** who depend on electricity every day to live, work, study and build a future

Kind regards

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**Adviser: Local Government Affairs**  
**AfriForum**

