

# Eskom Set to Turn Off Power to City of Johannesburg

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## INTRODUCTION

The ongoing dispute between Eskom Holdings SOC Limited (“Eskom”) and the City of Johannesburg (“COJ”) and its municipal power utility, City Power, has escalated into one of the most consequential confrontations in South African energy history.

On 19 May 2026, Eskom issued a formal notice of its intention to reduce, interrupt, and/or terminate the supply of electricity to certain bulk supply points serving the COJ and City Power, citing arrear debt of more than R5.2 billion.

This article examines the background to the dispute, the legal basis for Eskom’s notice, the procedural rights of affected persons under the Promotion of Administrative Justice Act 3 of 2000 (“PAJA”), and the potential implications of the disconnection for the COJ and its residents.

## LONG TIME COMING

The dispute between Eskom and the COJ has deep roots. According to Eskom, it has been working with the COJ and City Power for over two years to support the metro in meeting its payment obligations under the applicable Electricity Supply Agreement. Despite these efforts, Eskom contends that the COJ and City Power have repeatedly defaulted on their payment obligations, prompting Eskom to take escalated legal action to enforce payment.

This is not the first time Eskom has threatened to interrupt supply to Johannesburg. In November 2024, Eskom served a similar notice citing R4.9 billion in arrears. That notice was subsequently suspended in December 2024 to allow the Minister of Electricity and Energy to appoint an independent expert to investigate the disputed overbilling allegations.

The independent expert determined after several months of investigation that the amount of approximately R3.2 billion (with an amount of approximately R830 million written off) was due by City Power and COJ to Eskom, yet apparently – despite the expert’s determination – City Power and COJ have not paid up.

COJ/City Power’s debt has since grown, and by May 2026 the arrear amount stands at **R 5,255,421,994.16**, with a further **R 1,582,093,993.32** due on the current account on 5 June 2026.

## ESKOM’S NOTICE DATED 19 MAY 2026:

### Scope and Status

In its most recent statement, Eskom described the arrears as reflective of the COJ/City Power’s “complete failure” to honour the Electricity Supply Agreement, and stated that it had been “forced to issue a notice of its intention to reduce, interrupt and/or terminate the supply of electricity to certain bulk supply points against the City of Johannesburg and City Power”. Eskom has stressed that it is unacceptable for the COJ and City Power to be collecting electricity revenue from consumers while failing to pay Eskom its share.

The notice is issued in accordance with the Promotion of Administrative Justice Act (“PAJA”). Eskom has, in the notice, invited interested and affected parties to submit written representations, comments, and/or submissions as to why Eskom should or should not proceed to interrupt or terminate supply. A final decision on whether to proceed with the interruption is expected to be communicated after a review of the representations received by Eskom through the PAJA process.

It bears emphasis that no final decision has yet been made. The current notice is a notice of *intention*, and the PAJA process of inviting and considering representations from affected persons must first be completed — before any binding decision can lawfully be taken to turn off COJ by Eskom.

– that some politicians do not want to admit defeat/failure and are stubbornly clinging to a vain hope that COJ/City Power can recover sufficiently to keep providing Johannesburg with power. At this point, this outcome is looking increasingly more doubtful. Either power will be interrupted by Eskom, or by City Power’s failure to maintain its infrastructure – both ways the citizens of Johannesburg suffer for the political and administrative failures of the persons trusted to keep the lights on.

## THE RIGHTS OF AFFECTED PERSONS TO MAKE REPRESENTATIONS UNDER PAJA

The procedural framework governing Eskom's notice is set out in PAJA, which gives effect to section 33 of the Constitution of the Republic of South Africa, 1996. Section 33(1) and (2)<sup>1</sup> of the Constitution provides that everyone has the right to administrative action that is lawful, reasonable, and procedurally fair, and that everyone whose rights have been adversely affected by administrative action has the right to be given written reasons. PAJA was enacted to give effect to these rights and to promote an efficient administration and good governance.

### SECTION 3: PROCEDURAL FAIRNESS AFFECTING ANY PERSON

Section 3(1) of PAJA provides that administrative action which materially and adversely affects the rights or legitimate expectations of any person must be procedurally fair<sup>2</sup>.

Section 3(2)(b) elaborates on the minimum requirements for a fair procedure. An administrator must give the affected person:

- i. adequate notice of the nature and purpose of the proposed administrative action;
- ii. a reasonable opportunity to make representations;
- iii. a clear statement of the administrative action;
- iv. adequate notice of any right of review or internal appeal, where applicable; and
- v. adequate notice of the right to request reasons in terms of section 5<sup>3</sup>.

In addition, Section 3(3) of PAJA provides that the administrator may, in its discretion, also afford the affected person an opportunity to obtain assistance and, in serious or complex cases, legal representation; to present and dispute information and arguments; and to appear in person<sup>4</sup>.

Given the magnitude of the dispute and the potential impact on millions of Johannesburg residents, it would be strongly arguable that this is a "serious or complex" case warranting such additional procedural protections.

### SECTION 4: ADMINISTRATIVE ACTION AFFECTING THE PUBLIC

Where, as here, the proposed administrative action materially and adversely affects the rights of the public at large, section 4 of PAJA imposes additional procedural obligations. The administrator must decide whether to hold a public inquiry, to follow a notice and comment procedure, to follow both procedures, or to follow another appropriate procedure giving effect to section 3<sup>5</sup>.

If a notice and comment procedure is followed, the administrator must take appropriate steps to communicate the proposed action to those likely to be materially and adversely affected, call for comments, consider any comments received, and decide whether or not to take the administrative action, with or without changes. Eskom's invitation for written representations is consistent with this notice and comment procedure.

If a public inquiry is held, the administrator must determine the procedure for the inquiry — which must include a public hearing — compile a written report on the inquiry, and give reasons for any administrative action taken or recommended.

### SECTION 5: RIGHT TO WRITTEN REASONS

Any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for the action may, within 90 days, request that the administrator furnish written reasons. The administrator must provide adequate reasons in writing within 90 days of receiving the request. Should the administrator fail to furnish adequate reasons, it must be presumed, in any proceedings for judicial review, that the action was taken without good reason<sup>6</sup>.

### SECTION 6: JUDICIAL REVIEW

Should Eskom proceed with the interruption or termination of supply without complying with the procedural requirements under PAJA, any person may institute proceedings in a court for judicial review of and the setting aside of the administrative action. The grounds for judicial review include, among others, that the administrator was not authorised to take the action, that a mandatory procedure was not complied with, that the action was procedurally unfair, or that the action was unreasonable<sup>7</sup>.

Section 7(1) of PAJA requires that such proceedings be instituted without unreasonable delay and not later than 180 days after the conclusion of any internal remedies, or after the person became aware of the action and its reasons<sup>8</sup>.

Courts have the power to grant any order that is just and equitable, including setting aside the administrative action, directing the administrator to act in a particular manner, prohibiting the administrator from acting, granting temporary interdicts, or ordering compensation in exceptional cases.

### IMPLICATIONS FOR THE CITY OF JOHANNESBURG AND ITS RESIDENTS

The potential interruption or termination of electricity supply to bulk supply points in Johannesburg would have profound consequences.

As the Constitutional Court held in *Joseph v City of Johannesburg* [2009] ZACC 30; 2010 (4) SA 55 (CC), the termination of electricity supply constitutes administrative action, and residents—including tenants who are not direct parties to the supply agreement—are entitled to procedural fairness, including adequate notice and an opportunity to make representations<sup>9</sup>.

Courts have consistently affirmed that electricity is a basic municipal service integral to human dignity and livelihood, and that disconnection without compliance with due process is unlawful. Where a billing dispute remains unresolved, disconnection prior to its resolution has been found to be unlawful.

## THE BROADER MUNICIPAL DEBT CRISIS

The COJ and City Power's arrears form part of a much larger municipal debt crisis facing Eskom. Municipal debt has escalated from approximately R20 billion in 2019 to a staggering R105 billion by September 2025, accounting for the bulk of Eskom's R108 billion in outstanding arrears.

This unsustainable position undermines Eskom's financial recovery, its ability to supply electricity at affordable tariffs, and the gains made under the national debt relief programme. Eskom has noted that many other municipalities across the country are working with it to develop sustainable debt solutions, including through Distribution Agency Agreements.

It begs the question as to why COJ/City Power have not concluded a similar arrangement with Eskom voluntarily. If the municipal power utility is in trouble, why would it not seek assistance to keep the lights on? The authors assume that answer can only lie in the politics behind the scenes. It does not look good for South Africa's flagship economy that it can't keep the lights. Admitting failure and asking for help seems to be beyond the capability of the City.

## CONCLUSION

Eskom's notice of intention to reduce, interrupt, or terminate electricity supply to the City of Johannesburg and City Power represents a critical juncture in the management of municipal debt and the governance of South Africa's electricity sector.

PAJA ensures that such a far-reaching decision cannot be taken without affording the COJ, City Power, and importantly all affected members of the public an opportunity to make representations. The requirement for procedural fairness under PAJA, underpinned by section 33 of the Constitution, demands adequate notice, a meaningful opportunity to be heard, and the provision of written reasons.

Until the PAJA process has been completed and all representations duly considered, no final decision may lawfully be made. Affected residents should be alert to their rights under PAJA and, if necessary, their recourse to judicial review under section 6 of PAJA.

*Please note: Each matter must be dealt with on a case-by-case basis, and you should consult an attorney before taking any legal action.*

<sup>1</sup>The Constitution of the Republic of South Africa 108 of 1996, Section 33(1) and (2).

<sup>2</sup>Promotion of Administrative Justice Act 3 of 2000, Section 3(1).

<sup>3</sup>*Ibid*, Section 3(2)(b).

<sup>4</sup>*Ibid*, Section 3(3).

<sup>5</sup>*Ibid*, Section 4.

<sup>6</sup>*Ibid*, Section 5.

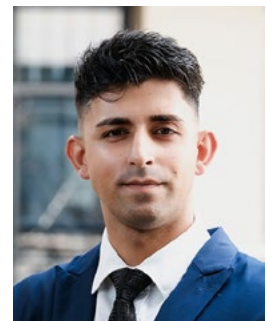
<sup>7</sup>*Ibid*, Section 6.

<sup>8</sup>*Ibid*, Section 7(1).

<sup>9</sup>*Joseph v City of Johannesburg* [2009] ZACC 30; 2010 (4) SA 55 (CC).



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