

## *PROPORTIONAL LEADERSHIP?*

Let's say that in a collective executive system, Party A has 37 councillors, Party B has 13 And Party C has one. The Executive Committee has 10 members and five standing committees. Is Party B entitled to chair a standing committee on the basis of proportionality?

It is the prerogative of the council (the ruling majority) to decide whether or not Party B can chair a standing committee. Party B constitutes just over 20% of the council which numerically equates to one in five. Section 160(8) of the Constitution provides that "members of a council are entitled to participate in its proceedings and those of its committees in a manner that allows parties and interests reflected within the council to be fairly represented, consistent with democracy". It could be argued that this applies not only to representation on committees but also to leadership of section 79 committees.

It may thus be in keeping with fair representation and the founding values of multi-party democracy that Party B chairs one standing committee, as this would be consistent with the number of seats it holds in council and thus with the principle of proportional participation in committees of council.

## *DISCONNECTING ELECTRICITY IN RESPONSE TO WATER OR RATES ARREARS*

If residents default on their water or rates accounts, can the municipality terminate the electricity supply as a debt collection response? Or can it disconnect electricity only in response to a default on that person's electricity account?

Section 102 of the Municipal Systems Act says that a municipality may consolidate separate accounts into one and it can implement its debt collection measures in response to any arrears on any of the accounts of the person in arrears. Thus, in principle, the Act permits the disconnection of electricity in response to water or rates arrears. However, in *Hartzenberg v Nelson Mandela Metropolitan Municipality* (see *LG Bulletin* 5(2), May 2003, p.11) this section did not assist the municipality because it did not have a by-law with a debt collection policy (as prescribed by the same Act).

For the disconnection of electricity supply in response to water or rates arrears to be permitted, the municipality must thus at least have a debt collection policy adopted in a by-law. The reverse, i.e. disconnecting water in response to electricity or rates arrears, is perhaps permitted under the Act but problematic in terms of the right of access to water as enshrined in the Constitution and the Water Services Act.