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Zondo Commission: tension between Eskom board and CEO led to Zuma again interfering

A chief executive who had gone rogue, with the understanding that he had the backing of the president. This is how former public enterprises minister Barbara Hogan described former Eskom CEO Jacob Maroga's behaviour at the time leading up to his departure from the power utility in late 2009.

Hogan detailed, on her second day of testimony at the commission of inquiry into state capture, how former president Jacob Zuma had interfered in the Eskom leadership matters, much as he had done with Transnet around the same time. Maroga, she said, had been encouraged by Zuma to the extent that he wrote a letter to Hogan in November of that year, stating that he remained CEO of the power utility – against the wishes of the board – and would account to the president and the president only, going forward.

In the preceding weeks, the relationship between Maroga and the Eskom board had deteriorated to the point that at a breakaway session held in late October, he is alleged to have angrily told the other attendees that it would be better for him to resign, before storming out of the meeting. The board then unanimously agreed that this act was an official offer to resign, and proceeded to accept it.

Soon after, a delegation from the board approached Maroga to notify him of the decision to accept his resignation, following his dramatic exit from the meeting.

The next day, an angry Maroga told Hogan his own version of the proceedings at the meeting, denying that he had resigned. Also present on this occasion was then chairperson of the board, Bobby Godsell, who had asked Hogan to come to the Eskom offices so that he could brief her on the dramatic turn of events.

"Mr Maroga handed me a letter denying that he had in fact resigned the previous day," said Hogan, revealing that her first impression of the tense relationship between Maroga and Godsell came at that moment. "A heated discussion ensued between the two of them."

In the letter, Maroga stated that among other factors, the resolution to Eskom's strategy issues was of national importance, and that the circumstances of all state-owned enterprises were vital at this point in the country's democracy. Hogan elected to meet with the board without Maroga present, to get a sense of the gravity of the issues. "I asked them one by one what they thought had happened at the meeting, and each one said Maroga had resigned."

She then decided it was best that her deputy minister, Enoch Godongwana, meet with Maroga, a proposal the CEO refused, saying he would only speak to Hogan. According to Hogan, it was at this meeting that she offered alternative processes, including mediation and even arbitration, which Maroga declined, impressing upon her that she was supposed to exercise her authority in the matter and rule. Even after he insisted on her charging her executive powers, Hogan said she told Maroga that she could only go as far as she had, and did not wish to interfere.

As Zuma was out of the country at this time, she took the matter up with deputy president Kgalema Motlanthe, whose response was that she must do what she had to do. Hogan was forced – on Zuma's instruction – to retract any communication stating that Maroga was no longer CEO.

At this stage, Godsell had only informed the senior management team at Eskom, and not the media, although a briefing was scheduled for later that day. It was then cancelled with the view that the board could not go against the president's wishes. Media hype and speculation around the future of Eskom were rife at this point, said Hogan. Deputy Chief Justice Raymond Zondo, the commission chairperson, asked Hogan if the instruction from Zuma had come at a time when he was out of the country, and Motlanthe was officially acting in the post of president, to which Hogan said yes.

Later that week, on his return to the country, Zuma and Hogan met. He proposed an alternative to Maroga leaving, stating that both Maroga and the board would have to produce reports stating their version of events, which Hogan would study and then decide the way forward. The board agreed to the proposal, on condition that Maroga would take special leave to execute this task. Maroga refused and Godsell, upon receiving the news, resigned as board chair.

The next instruction Hogan received from Zuma was to let the board know that he had given Maroga permission to proceed as CEO. He returned to his office on 9 November, and later that day penned a letter in a seemingly gloating tone, that he subsequently sent to Hogan. In it he told Hogan that she was accountable to "the shareholder at the highest level", which Hogan understood to mean Zuma. This action, however, was what sank Maroga.

Godongwana reacted with anger to the letter, and promptly requested a meeting at Luthuli House to discuss it. When he confronted Zuma about the contents of the letter, and the inference that Maroga enjoyed the president's protection, Zuma then instructed Maroga to step down from his post, and only return on the instruction of Hogan to do so.

Maroga sued Eskom in 2010, demanding that he either be reinstated, or paid R85-million in compensation for his removal. He lost the battle when the Gauteng High Court ruled as questionable his version of events at the board meeting where he is alleged to have resigned.

Hogan continues to testify.

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